# 1NC

### 1

#### Interpretation: Targeted killings are strikes carried about against pre-meditated, individually designated targets---the aff is distinct.

Anderson, Professor at Washington College of Law, American University, ‘11

[Kenneth, Hoover Institution visiting fellow, Non-Resident Visiting Fellow at Brookings, “Distinguishing High Value Targeted Killing and ‘Signature’ Attacks on Taliban Fighters,” August 29 2011, http://www.volokh.com/2011/08/29/distinguishing-high-value-targeted-killing-and-signature-attacks-on-taliban-fighters/]

From the US standpoint, it is partly that it does not depend as much as it did on Pakistan’s intelligence. But it is also partly, as a couple of well-publicized incidents a few months ago made clear, that sharing targeting decisions with Pakistan’s military and ISI runs a very considerable possibility of having the targets tipped off (as even The Onion has observed). The article notes in this regard, the U.S. worries that “if they tell the Pakistanis that a drone strike is coming someone within Pakistani intelligence could tip off the intended target.” However, the Journal’s reporting goes from there to emphasize an aspect of targeted killing and drone warfare that is not sufficiently appreciated in public discussions trying to assess such issues as civilian collateral damage, strategic value and uses, and the uses of drones in counterterrorism and counterinsurgency as distinct activities. The article explains:¶ The CIA carries out two different types of drone strikes in the tribal areas of Pakistan—those against so-called high-value targets, including Mr. Rahman, and “signature” strikes targeting Taliban foot-soldiers who criss-cross the border with Afghanistan to fight U.S. forces there.¶ High-value targets are added to a classified list that the CIA maintains and updates. The agency often doesn’t know the names of the signature targets, but it tracks their movements and activities for hours or days before striking them, U.S. officials say.¶ Another way to put this is that, loosely speaking, the high value targets are part of a counterterrorism campaign – a worldwide one, reaching these days to Yemen and other places. It is targeted killing in its strict sense using drones – aimed at a distinct individual who has been identified by intelligence. The “signature” strikes, by contrast, are not strictly speaking “targeted killing,” because they are aimed at larger numbers of fighters who are targeted on the basis of being combatants, but not on the basis of individuated intelligence. They are fighting formations, being targeted on a mass basis as part of the counterinsurgency campaign in Afghanistan, as part of the basic CI doctrine of closing down cross-border safe havens and border interdiction of fighters. Both of these functions can be, and are, carried out by drones – though each strategic function could be carried out by other means, such as SEAL 6 or CIA human teams, in the case of targeted killing, or manned aircraft in the case of attacks on Taliban formations. The fundamental point is that they serve distinct strategic purposes. Targeted killing is not synonymous with drone warfare, just as counterterrorism is analytically distinct from counterinsurgency. (I discuss this in the opening sections of this draft chapter on SSRN.)¶ This analytic point affects how one sees the levels of drone attacks going up or down over the years. Neither the total numbers of fighters killed nor the total number of drone strikes – going up or down over months – tells the whole story. Total numbers do not distinguish between the high value targets, being targeted as part of the top down dismantling of Al Qaeda as a transnational terrorist organization, on the one hand, and ordinary Taliban being killed in much larger numbers as part of counterinsurgency activities essentially part of the ground war in Afghanistan, on the other. Yet the distinction is crucial insofar as the two activities are, at the level of truly grand strategy, in support of each other – the war in Afghanistan and the global counterterrorism war both in support of the AUMF and US national security broadly – but at the level of ordinary strategic concerns, quite distinct in their requirements and conduct. If targeted killing against AQ leadership goes well in Pakistan, those might diminish at some point in the future; what happens in the war against the Afghan Taliban is distinct and has its own rhythm, and in that effort, drones are simply another form of air weapon, an alternative to manned aircraft in an overt, conventional war. Rising or falling numbers of drone strikes in the aggregate will not tell one very much without knowing what mission is at issue.

#### Violation – The aff restricts indiscriminate drone strikes per their 1AC ICG evidence; that’s not targeted killing.

#### Prefer our interp – allowing blanket drone strikes in the topic destroys predictability, limits, and precision by allowing in mass attacks against enemy combatants and all kinds of air power weapons platforms

Anderson, Professor at Washington College of Law, American University, ‘11

[Kenneth, Hoover Institution visiting fellow, Non-Resident Visiting Fellow at Brookings, “Efficiency in Bello and ad Bellum: Targeted Killing Through Drone Warfare,” Sept 23 2011, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1812124]

Although targeted killing and drone warfare are often closely connected, they are not the same and are not always associated with each other. We need to disaggregate the practices of targeted killing from the technologies of drone warfare.¶ Targeted killing consists of using deadly force, characterized by the identification of and then strike against an individual marked to be killed. It is distinguished, among other things, by making an individualized determination of a person to be killed, rather than simply identifying, for example, a mass of enemy combatants to attack as a whole. Since it is a practice that involves the determination of an identified person, rather than a mass of armed and obvious combatants, it is a use of force that is by its function integrated with intelligence work, whether the intelligence actors involved are uniformed military or a civilian agency such as the CIA.¶ Targeted killing might (and does) take place in the course of conventional warfare, through special operations or other mechanisms that narrowly focus operations through intelligence. But it might also take place outside of a conventional conflict, or perhaps far from the conventional battlefields of that conflict, sufficiently so operationally to best be understood as its own operational category of the use of force – “intelligence-driven,” often covert, and sometimes non-military intelligence agency use of force, typically aimed at “high value” targets in global counterterrorism operations. It might be covert or it might not – but it will be driven by intelligence, because of necessity it must identify and justify the choice of target (on operational, because resources are limited; or legal grounds; or, in practice, both).¶ Targeted killing might use a variety of tactical methods by which to carry out the attack. The method might be by drones firing missiles – the focus of discussion here. But targeted killing – assassination, generically – is a very old method for using force and drones are new. Targeted killing in current military and CIA doctrine might, and often does, take place with covert civilian intelligence agents or military special operations forces – a human team carrying out the attack, rather than a drone aircraft operated from a distance. The Bin Laden raid exemplifies the human team-conducted targeted killing, of course, and in today’s tactical environment, the US often uses combined operations that have available both human teams and drones, to be deployed according to circumstances.¶ Targeted killing is thus a tactic that might be carried out either by drones or human teams. If there are two ways to do targeted killing, there are also two functions for the use of drones – targeted killing as part of an “intelligence-driven” discrete use of force, on the one hand, and a role (really, roles) in conventional warfare. Drones have a role in an ever-increasing range of military operations that have no connection to “targeted killing.” For many reasons ranging from cost-effectiveness to mission-effectiveness, drones are becoming more ramified in their uses in military operations, and will certainly become more so. This is true starting with their fundamental use in surveillance, but is also true when used as weapons platforms.¶ From the standpoint of conventional military operations and ordinary battlefields, drones are seen by the military as simply an alternative air weapons platform. One might use an over-the-horizon manned aircraft – or, depending on circumstances, one might instead use a drone as the weapons platform. It might be a missile launched from a drone by an operator, whether sitting in a vehicle near the fighting or farther away; it might be a weapon fired from a helicopter twenty miles away, but invisible to the fighters; it might be a missile fired from a US Navy vessel hundreds of miles away by personnel sitting at a console deep inside the ship. Future air-to-air fighter aircraft systems are very likely to be remotely piloted, in order to take advantage of superior maneuverability and greater stresses endurable without a human pilot. Remotely-piloted aircraft are the future of much military and, for that matter, civil aviation; this is a technological revolution that is taking place for reasons having less to do with military aviation than general changes in aviation technology.¶ Missiles fired from a remotely-piloted standoff platform present the same legal issues as any other weapons system – the law of war categories of necessity and proportionality in targeting. To military professionals, therefore, the emphasis placed on “remoteness” from violence of drone weapons operators, and presumed psychological differences in operators versus pilots, is misplaced and indeed mystifying. Navy personnel firing missiles from ships are typically just as remote from the fighting, and yet one does not hear complaints about their indifference to violence and their “Playstation,” push-button approach to war. Air Force pilots more often than not fire from remote aircraft; pilots involved in the bombing campaign over Serbia in the Kosovo war sometimes flew in bombers taking off from the United States; bomber crews dropped their loads from high altitudes, guided by computer, with little connection to the “battlefield” and little conception of what they – what their targeting computers - were aiming at. Some of the crews in interviews described spending the flights of many hours at a time, flying from the Midwest and back, as a good chance to study for graduate school classes they were taking – not Playstation, but study hall. In many respects, the development of new sensor technologies make the pilots, targeters, and the now-extensive staff involved in a decision to fire a weapon from a drone far more aware of what is taking place at the target than other forms of remote targeting, from Navy ships or high altitude bombing.¶ Very few of the actors on a technologically advanced battlefield are personally present in a way that makes the destruction and killing truly personal – and that is part of the point. Fighting up close and personal, on the critics’ psychological theories, seems to mean that it has greater significance to the actors and therefore leads to greater restraint. That is extremely unlikely and contrary to the experience of US warfighters. Lawful kinetic violence is more likely to increase when force protection is an issue, and overuse of force is more likely to increase when forces are under personal pressure and risk. The US military has known since Vietnam at least that increased safety for fighting personnel allows them greater latitude in using force, encourages and permits greater willingness to consider the least damaging alternatives, and that putting violence at a remove reduces the passions and fears of war and allows a coolly professional consideration of what kinds, and how much, violence is required to accomplish a lawful military mission. Remote weapon systems, whether robotic or simply missiles launched from a safe distance, in US doctrine are more than just a means for reducing risk to forces – they are an integral part of the means of allowing more time to consider less-harmful alternatives.¶ This is an important point, given that drones today are being used for tasks that involve much greater uses of force than individualized targeted killing. Drones are used today, and with increasing frequency, to kill whole masses of enemy columns of Taliban fighters on the Pakistan border – in a way that would otherwise be carried out by manned attack aircraft. This is not targeted killing; this is conventional war operations. It is most easily framed in terms of the abstract strategic division of counterinsurgency from counterterrorism (though in practice the two are not so distinct as all that). In particular, drones are being deployed in the AfPak conflict as a counterinsurgency means of going after Taliban in their safe haven camps on the Pakistan side of the border. A fundamental tenet of counterinsurgency is that the safe havens have to be ended, and this has meant targeting much larger contingents of Taliban fighters than previously understood in the “targeted killing” deployment. This could be – and in some circumstances today is – being done by the military; it is also done by the CIA under orders of the President partly because of purely political concerns; much of it today seems to be a combined operation of military and CIA.¶ Whoever conducts it and whatever legal issues it might raise, the point is that this activity is fundamentally counterinsurgency. The fighters are targeted in much larger numbers in the camps than would be the case in “targeted killing,” and this is a good instance of how targeted killing and drone warfare need to be differentiated. The targets are not individuated, either in the act of targeting or in the decision of who and where to target: this is simply an alternative air platform for doing what might otherwise be done with helicopters, fixed wing aircraft, or ground attack, in the course of conventional counterinsurgency operations. But it also means that the numbers killed in such operations are much larger, and consist often of ordinary fighters who would otherwise pile into trucks and cross back into Afghanistan, rather than individualized “high value” targets, whether Taliban or Al Qaeda.

#### D. T is a voter in order to preserve fairness and education

### 2

#### CP Text: The Executive branch of the United States should limit targeted killings to individuals who U.S. officials claim are being targeted, provide a public accounting of how it meets the principles of distinction and proportionality that the Obama administration claims, review its current policy whereby the executive authority for drone strikes is split between the CIA and JSOC, provide information to the public, Congress and UN special rapporteurs on what procedures exist to prevent harm to civilians, ban the use of signature strikes and never conduct non battlefield targeted killings without an accountable human being authorizing the strike. The Executive branch should propose an international treaty limiting how drones are used.

#### Self-Restraint solves

Zenko 13 (Micah, Dr. Zenko is a Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR), he worked for five years at Harvard University’s Kennedy School of Government, and in Washington, DC, at the Brookings Institution, Congressional Research Service, and State Department's Office of Policy Planning, Council Special Report No.65, January 2013, Reforming US Drone Strike Policies, i.cfr.org/content/publications/attachments/Drones\_CSR65.pdf)

History shows that how states adopt and use new military capabilities is often influenced by how other states have—or have not—used them in the past. Furthermore, norms can deter states from acquiring new technologies.72 Norms—sometimes but not always codified as legal regimes—have dissuaded states from deploying blinding lasers and landmines, as well as chemical, biological, and nuclear weapons. A well-articulated and internationally supported normative framework, bolstered by a strong U.S. example, can shape armed drone prolifera- tion and employment in the coming decades. Such norms would not hinder U.S. freedom of action; rather, they would internationalize already-necessary domestic policy reforms and, of course, they would be acceptable only insofar as the limitations placed reciprocally on U.S. drones furthered U.S. objectives. And even if hostile states do not accept norms regulating drone use, the existence of an international norma- tive framework, and U.S. compliance with that framework, would pre- serve Washington’s ability to apply diplomatic pressure. Models for developing such a framework would be based in existing international laws that emphasize the principles of necessity, proportionality, and distinction—to which the United States claims to adhere for its drone strikes—and should be informed by comparable efforts in the realms of cyber and space.¶ In short, a world characterized by the proliferation of armed drones—used with little transparency or constraint—would under- mine core U.S. interests, such as preventing armed conflict, promoting human rights, and strengthening international legal regimes. It would be a world in which targeted killings occur with impunity against anyone deemed an “enemy” by states or nonstate actors, without accountability for legal justification, civilian casualties, and proportionality. Perhaps more troubling, it would be a world where such lethal force no longer heeds the borders of sovereign states. Because of drones’ inherent advantages over other weapons platforms, states and nonstate actors would be much more likely to use lethal force against the United States and its allies.¶ Much like policies governing the use of nuclear weapons, offensive cyber capabilities, and space, developing rules and frameworks for innovative weapons systems, much less reaching a consensus within the U.S. government, is a long and arduous process. In its second term, the Obama administration has a narrow policy window of opportunity to pursue reforms of the targeted killings program. The Obama admin- istration can proactively shape U.S. and international use of armed drones in nonbattlefield settings through transparency, self-restraint, and engagement, or it can continue with its current policies and risk the consequences. To better secure the ability to conduct drone strikes, and potentially influence how others will use armed drones in the future, the United States should undertake the following specific policy recommendations.¶ The president of the United States should ■■ limit targeted killings to individuals who U.S. officials claim are being targeted—the leadership of al-Qaeda and affiliated forces or individ- uals with a direct operational role in past or ongoing terrorist plots against the United States and its allies—and bring drone strike prac- tices in line with stated policies; ■■ either end the practice of signature strikes or provide a public account- ing of how it meets the principles of distinction and proportionality that the Obama administration claims; ■■ review its current policy whereby the executive authority for drone strikes is split between the CIA and JSOC, as each has vastly different legal authorities, degrees of permissible transparency, and oversight; ■■ provide information to the public, Congress, and UN special rappor- teurs—without disclosing classified information—on what proce- dures exist to prevent harm to civilians, including collateral damage mitigation, investigations into collateral damage, corrective actions based on those investigations, and amends for civilian losses; and ■■ never conduct nonbattlefield targeted killings without an account- able human being authorizing the strike (while retaining the poten- tial necessity of autonomous decisions to use lethal force in warfare in response to ground-based antiaircraft fire or aerial combat).

### 3

#### Status quo drone flexibility *signals* U.S. superiority and strength – key to win the war on terror

Haddick 11 (Robert, contractor at U.S. Special Operations Command, From January 2009 to September 2012 he was Managing Editor of Small Wars Journal, former U.S. Marine Corps officer, served in the 3rd and 23rd Marine Regiments, and deployed to Asia and Africa, “Drones help Washington win a war of perceptions”, Oct 3, <http://smallwarsjournal.com/blog/drones-help-washington-win-a-war-of-perceptions>)

An article in Saturday’s New York Times asserted that policymakers in Washington have settled on a new favorite technique to fight terrorists – the missile-firing Predator drone. Last week’s killing of Anwar al-Awlaki in Yemen showed, according to the Times, “a cheap, safe and precise tool to eliminate enemies. It was also a sign that the decade-old American campaign against terrorism has reached a turning point … Disillusioned by huge costs and uncertain outcomes in Iraq and Afghanistan, the Obama administration has decisively embraced the drone, along with small-scale lightning raids like the one that killed Osama bin Laden in May, as the future of the fight against terrorist networks.”¶ In my Foreign Policy column later this week, I will explore what the drone strategy will mean for the Pentagon’s plans. Here, I assert that the drone strikes, along with special operations raids, have become the policymaker’s best friend because they allow these policymakers to show the world that they have the power to strike spectacularly against their terrorist adversaries, something that was in doubt at the beginning of the war. Successful drone strikes and raids are now putting Washington in the lead in the battle over perceptions.¶ With their attacks on targets ranging from the World Trade Center and Pentagon to brand label hotels, terror planners have revealed their preference for spectacle and symbolism. Washington’s drone strikes and special operations raids are useful at a practical level. But they have now become more important as symbolic acts, showing that the United States government really can strike at adversaries who may have once believed they could torment the West while remaining invisible. Washington’s policymakers have been anxious to show they are not impotent against iconic figures like bin Laden and Awlaki. The Predator drone, supported by a vast intelligence effort, has delivered the potency and relevance these policymakers have longed for.¶ In order to show they are dominant in the struggle against terrorists, Washington policymakers are attempting to “gain and maintain spectacle superiority.” Washington will achieve the perception that it is winning the war when it achieves more spectacular drone and special operations strikes than do the terrorists. The logical limit will be the killing of all of the most infamous terror figures, with the top of that list currently held by Ayman al Zawahiri. Some have argued that U.S. policymakers should leave Zawahiri in place -- as an allegedly poor and divisive leader, he is thought by some to be more harmful to al Qaeda alive than dead. But the logic of “spectacle superiority” argues that Zawahiri must get a Hellfire missile if only to show the world that no one can escape the CIA’s grasp.¶ As already noted, there were practical benefits to the strikes against bin Laden and Awlaki. The bin Laden raid resulted in a massive intelligence haul. The strike on Awlaki removed a potentially effective recruiter of “lone wolf” attackers inside the United States. Beyond these effects, the counterterrorism benefits of these and other strikes are much more diffuse and difficult to measure. In the long run, the TIDE database, maintained by the National Counterterrorism Center and supported by interagency and international cooperation, is the most important defense against terror attacks and provides more tangible security than kinetic action overseas. Even so, policymakers in Washington will deem it essential to win the war of perceptions over terrorism, if only to preserve their reputational power.¶ Killing the last of the notables al Qaeda figures could prompt Washington to declare victory. However, the war won’t be over – the next generation of al Qaeda figures may adapt by to the drone campaign by striving to keep their al Qaeda affiliations secret. Al Qaeda operational security may improve while recruiting and fund-raising for a then completely anonymous organization would undoubtedly suffer. U.S. drone strikes and raids, many also secret, would continue as an increasingly hidden war goes on.¶ If this describes the end-game, Washington stands likely to win the war of perception, especially if al Qaeda fails to mount another large-scale spectacle inside the United States. Predator drones, supported by an army of intelligence analysts, have gained the initiative and are winning the war of perceptions over al Qaeda. Policymakers in Washington, who live and die in the world of perceptions, should be grateful.

#### Restricting targeted killing outside active hostilities collapses counter-terrorism by signaling availability of safe havens and immunity from strikes.

Geoffrey Corn 13, Professor of Law and Presidential Research Professor, South Texas College of Law, 5/16/13, Statement before the Senate Armed Services Committee, CQ Congressional Testimony, lexis

3. What is the geographic scope of the AUMF and under what circumstances may the United States attack belligerent targets in the territory of another country?

In my opinion, there is no need to amend the AUMF to define the geographic scope of military operations it authorizes. On the contrary, I believe doing so would fundamentally undermine the efficacy of U.S. counter-terror military operations by overtly signaling to the enemy exactly where to pursue safe-haven and de facto immunity from the reach of U.S. power. This concern is similar to that associated with explicitly defining co- belligerents subject to the AUMF, although I believe it is substantially more significant. It is an operational and tactical axiom that insurgent and non-state threats rarely seek the proverbial "toe to toe" confrontation with clearly superior military forces. Al Qaeda is no different. Indeed, their attempts to engage in such tactics in the initial phases of Operation Enduring Freedom proved disastrous, and ostensibly caused the dispersion of operational capabilities that then necessitated the co-belligerent assessment. Imposing an arbitrary geographic limitation of the scope of military operations against this threat would therefore be inconsistent with the strategic objective of preventing future terrorist attacks against the United States.¶ I believe much of the momentum for asserting some arbitrary geographic limitation on the scope of operations conducted to disrupt or disable al Qaeda belligerent capabilities is the result of the commonly used term "hot battlefield." This notion of a "hot" battlefield is, in my opinion, an operational and legal fiction. Nothing in the law of armed conflict or military doctrine defines the meaning of "battlefield." Contrary to the erroneous assertions that the use of combat power is restricted to defined geographic locations such as Afghanistan (and previously Iraq), the geographic scope of armed conflict must be dictated by a totality assessment of a variety of factors, ultimately driven by the strategic end state the nation seeks to achieve. The nature and dynamics of the threat -including key vulnerabilities - is a vital factor in this analysis. These threat dynamics properly influence the assessment of enemy capabilities and vulnerabilities, which in turn drive the formulation of national strategy, which includes determining when, where, and how to leverage national power (including military power) to achieve desired operational effects. Thus, threat dynamics, and not some geographic "box", have historically driven and must continue to drive the scope of armed hostilities. The logic of this premise is validated by (in my opinion) the inability to identify an armed conflict in modern history where the scope of operations was legally restricted by a conception of a "hot" battlefield. Instead, threat dynamics coupled with policy, diplomatic considerations and, in certain armed conflicts the international law of neutrality, dictate such scope. Ultimately, battlefields become "hot" when persons, places, or things assessed as lawful military objectives pursuant to the law of armed conflict are subjected to attack.¶ I do not, however, intend to suggest that it is proper to view the entire globe as a battlefield in the military component of our struggle against al Qaeda, or that threat dynamics are the only considerations in assessing the scope of military operations. Instead, complex considerations of policy and diplomacy have and must continue to influence this assessment. However, suggesting that the proper scope of combat operations is dictated by a legal conception of "hot" battlefield is operationally irrational and legally unsound. Accordingly, placing policy limits on the scope of combat operations conducted pursuant to the legal authority provided by the AUMF is both logical and appropriate, and in my view has been a cornerstone of U.S. use of force policy since the enactment of the AUMF. In contrast, interpreting the law of armed conflict to place legal limits on the scope of such operations to "hot" battlefields, or imposing such a legal limitation in the terms of the AUMF, creates a perverse incentive for the belligerent enemy by allowing him to dictate when and where he will be subject to lawful attack.¶ I believe this balance between legal authority and policy and diplomatic considerations is reflected in what is commonly termed the "unable or unwilling" test for assessing when attacking an enemy belligerent capability in the territory of another country is permissible. First, it should be noted that the legality of an attack against an enemy belligerent is determined exclusively by the law of armed conflict when the country where he is located provides consent for such action (is the target lawful within the meaning of the law and will attack of the target comply with the targeting principles of distinction, proportionality and precautions in the attack). In the unusual circumstance where a lawful object of attack associated with al Qaeda and therefore falling within the scope of the AUMF is identified in the territory of another country not providing consent for U.S. military action, policy and diplomacy play a decisive role in the attack decision-making process. Only when the U.S. concludes that the country is unable or unwilling to address the threat will attack be authorized, which presupposes that the nature of the target is determined to be sufficiently significant to warrant a non-consensual military action in that territory. I believe the Executive is best positioned to make these judgments, and that to date they have been made judiciously. I also believe that imposing a statutory scope limitation would vest terrorist belligerent operatives with the benefits of the sovereignty of the state they exploit for sanctuary. It strikes me as far more logical to continue to allow the President to address these sovereignty concerns through diplomacy, focused on the strategic interests of the nation.

#### Nuclear terror is possible and results in extinction.

Dvorkin, Major General (retired), doctor of technical sciences, professor, and senior fellow at the Center for International Security of the Institute of World Economy and International Relations of the Russian Academy of Sciences, ‘12

[Vladimir, The Center participates in the working group of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, 9/21/12, "What Can Destroy Strategic Stability: Nuclear Terrorism is a Real Threat," belfercenter.ksg.harvard.edu/publication/22333/what\_can\_destroy\_strategic\_stability.html]

Hundreds of scientific papers and reports have been published on nuclear terrorism. International conferences have been held on this threat with participation of Russian organizations, including IMEMO and the Institute of U.S. and Canadian Studies. Recommendations on how to combat the threat have been issued by the International Luxembourg Forum on Preventing Nuclear Catastrophe, Pugwash Conferences on Science and World Affairs, Russian-American Elbe Group, and other organizations. The UN General Assembly adopted the International Convention for the Suppression of Acts of Nuclear Terrorism in 2005 and cooperation among intelligence services of leading states in this sphere is developing.¶ At the same time, **these efforts fall short for a number of reasons, partly because various acts of nuclear terrorism are possible. Dispersal of radioactive material by detonation of conventional explosives (“dirty bombs”) is a method that is most accessible for terrorists. With the wide spread of radioactive sources, raw materials for such attacks have become much more accessible than weapons-useable nuclear material or nuclear weapons.** The use of **“**dirty bombs**”** will not cause many immediate casualties, but it **will result into long-term radioactive contamination, contributing to the spread of** panic and socio-economic destabilization**.**¶ Severe **consequences can be caused by sabotaging nuclear power plants, research reactors, and radioactive materials storage facilities. Large cities are especially vulnerable to such attacks. A large city may host dozens of research reactors with a nuclear power plant or a couple of spent nuclear fuel storage facilities and dozens of large radioactive materials storage facilities located nearby.** The past few years have seen significant efforts made to enhance organizational and physical aspects of security at facilities, especially at nuclear power plants. **Efforts have also been made to improve security culture. But these efforts do not preclude the possibility that** well-trained terrorists may be able to penetrate nuclear facilities**.**¶ **Some estimates show that sabotage of a research reactor in a metropolis may expose hundreds of thousands to high doses of radiation. A formidable part of the city would become uninhabitable for a long time**.¶ Of all the scenarios, it **is building an improvised nuclear device by terrorists that poses the maximum risk. There are no engineering problems that cannot be solved if terrorists decide to build a simple “gun-type” nuclear device.** **Information on the design of such devices, as well as implosion-type devices, is available in the public domain**. It is the acquisition of weapons-grade uranium that presents the sole serious obstacle. Despite numerous preventive measures taken, we cannot rule out the possibility that **such materials can be bought on the black market.** Theft of weapons-grade uranium is also possible**. Research reactor fuel is considered to be particularly vulnerable to theft, as it is scattered at sites in dozens of countries. There are about 100 research reactors in the world that run on weapons-grade uranium fuel, according to the International Atomic Energy Agency (IAEA).**¶ **A terrorist “gun-type” uranium bomb can have a yield of least 10-15 kt, which is** comparable to the yield of the bomb dropped on Hiroshima**.** **The explosion of such a bomb in a modern metropolis can kill and wound hundreds of thousands and cause serious economic damage. There will also be long-term sociopsychological and political consequences**.¶ The vast majority of states have introduced unprecedented security and surveillance measures at transportation and other large-scale public facilities after the terrorist attacks in the United States, Great Britain, Italy, and other countries. These measures have proved burdensome for the countries’ populations, but the public has accepted them as necessary. **A nuclear terrorist attack will make the public accept further measures meant to enhance control even if these measures significantly restrict the democratic liberties they are accustomed to. Authoritarian states could be expected to adopt even more restrictive measures**.¶ If a nuclear terrorist act occurs, **nations will delegate tens of thousands of their secret services’ best personnel to investigate and attribute the attack. Radical Islamist groups are among those capable of such an act.** We can imagine what would happen if they do so, **given the anti-Muslim sentiments and resentment that conventional terrorist attacks by Islamists have generated in developed democratic countries. Mass deportation of the non-indigenous population and severe sanctions would follow such an attack in what will cause violent protests in the Muslim world. Series of armed clashing terrorist attacks may follow. The prediction that Samuel Huntington has made in his book “**The Clash of Civilizations **and the Remaking of World Order” may come true**. Huntington’s book clearly demonstrates that it is not Islamic extremists that are the cause of the Western world’s problems. Rather there is a deep, intractable conflict that is rooted in the fault lines that run between Islam and Christianity. **This is especially dangerous for Russia because these fault lines run across its territory.** To sum it up, the political leadership of Russia has every reason to revise its list of factors that could undermine strategic stability.  BMD does not deserve to be even last on that list because its effectiveness in repelling massive missile strikes will be extremely low. BMD systems can prove useful only if deployed to defend against launches of individual ballistic missiles or groups of such missiles. Prioritization of other destabilizing factors—that could affect global and regional stability—merits a separate study or studies. But even without them I can conclude that nuclear terrorism should be placed on top of the list. The threat of nuclear terrorism is real, and a successful nuclear terrorist attack would lead to a radical transformation of the global order.  All of the threats on the revised list must become a subject of thorough studies by experts. States need to work hard to forge a common understanding of these threats and develop a strategy to combat them.

### Solvency

#### Congress won’t enforce – no durable fiat.

Druck, JD – Cornell Law, ‘12

[Judah, 98 Cornell L. Rev. 209]

Of course, despite these various suits, Congress has received much of the blame for the WPR's treatment and failures. For example, Congress has been criticized for doing little to enforce the WPR in using other Article I tools, such as the "power of the purse," n76 or by closing the loopholes frequently used by presidents to avoid the WPR [\*221] in the first place. n77 Furthermore, in those situations where Congress has decided to act, it has done so in such a disjointed manner as to render any possible check on the President useless. For example, during President Reagan's invasion of Grenada, Congress failed to reach an agreement to declare the WPR's sixty-day clock operative, n78 and later faced similar "dead-lock" in deciding how best to respond to President Reagan's actions in the Persian Gulf, eventually settling for a bill that reflected congressional "ambivalence." n79 Thus, between the lack of a "backbone" to check rogue presidential action and general ineptitude when it actually decides to act, n80 Congress has demonstrated its inability to remedy WPR violations. Worse yet, much of Congress's interest in the WPR is politically motivated, leading to inconsistent review of presi-dential military decisions filled with post-hoc rationalizations. Given the political risk associated with wartime deci-sions, n81 Congress lacks any incentive to act unless and until it can gauge public reaction - a process that often occurs after the fact. n82 As a result, missions deemed successful by the public will rarely provoke "serious congressional con-cern" about presidential compliance with the WPR, while failures will draw scrutiny. n83 For example, in the case of the Mayaguez, "liberals in the Congress generally praised [President Gerald Ford's] performance" despite the constitutional questions surrounding the conflict, simply because the [\*222] public deemed it a success. n84 Thus, even if Congress was effective at checking potentially unconstitutional presidential action, it would only act when politically safe to do so. This result should be unsurprising: making a wartime decision provides little advantage for politicians, especially if the resulting action succeeds. n85 Consequently, Congress itself has taken a role in the continued disregard for WPR enforcement. The current WPR framework is broken: presidents avoid it, courts will not rule on it, and Congress will not enforce it. This cycle has culminated in President Obama's recent use of force in Libya, which created little, if any, controversy, n86 and it provides a clear pass to future presidents, judges, and congresspersons looking to continue the system of pas-sivity and deferment.

#### Military will backlash, prevents implementation – plan crushes CMR.

Yoo, professor of law – U California, Berkeley, ‘9

[John, 58 Duke L.J. 2277]

As conditions worsened in Iraq after the fall of Saddam Hussein's regime, the military became more critical of Sec-retary Rumsfeld. Military officers anonymously criticized the Secretary for refusing to send enough troops to pacify the country, and generally attacked him for ignoring their advice and counsel. In an April 2006 act known in the military as the "revolt of the generals," dozens of senior retired military officers called for Rumsfeld's resignation for allegedly mismanaging the war. n73 In 2006, retired general Gregory Newbold, former director of operations of the Joint Chiefs, wrote an essay in Time declaring that it was his "sincere view ... that the commitment of forces to this fight was done with a casualness and swagger that are the special province of those who have never had to execute these missions - or bury the results." n74 Part of the impetus for the revolt was the deeper lesson, taken by the officer corps from Vietnam, that the military had been too subservient to civilian leaders and that they should talk straight to the political leadership about their views. Ironically, the 2007-08 surge in forces in Iraq and the improvement in the country's rebuilding came against the advice of the senior military leadership, which had decided that the size of the American footprint in Iraq was part of the problem. n75 Dissension over Iraq was matched by contention over the continuing war on terrorism. Perhaps the most public ex-ample was Congress's consideration of the Military Commissions Act of 2006 [\*2290] (MCA), n76 which established rules for the detention and military trials of terrorists. In November 2001, President Bush issued an executive order es-tablishing military commissions, in the form of a military tribunal, to try al Qaeda members and their allies for war crimes. n77 Some members of the military's Judge Advocate Generals (JAG) corps wanted to use courts-martial instead, but civilian leaders in the Pentagon favored commissions, which promised a flexible balance between the need for an open, fair proceeding and the need to keep national security secrets. In Hamdan v. Rumsfeld, n78 the Supreme Court held that the tribunals had to operate according to the lines set out in Common Article 3 of the Geneva Conventions, n79 set-ting off Congress's consideration of the 2006 Act. During congressional hearings, JAGs for the Marines and the Army testified that commission rules withholding classified evidence from the defendant, but not his lawyer, would still vio-late the Geneva Conventions, whereas the civilian representative of the Department of Justice testified to the opposite effect. n80 Military disagreement over civilian policy in the war on terrorism extended back to the beginning of the conflict. JAGs challenged President Bush's decision in February 2002, after extensive debate within the executive branch, that members of al Qaeda and the Taliban were not to receive the status of prisoners of war under the Geneva Conventions. n81 After that decision, JAGs reportedly cooperated with private human rights groups to challenge the decision in federal court. Once uniformed lawyers were appointed to represent detainees in the military commission process, they [\*2291] dispensed with the secrecy and filed suit against the Bush administration directly. n82 Members of the uniformed military also challenged the legality of holding suspected al Qaeda at the U.S. Navy Station at Guantanamo Bay, Cuba. n83 Ac-cording to media reports, JAGs representing detainees in the military commission process met with members of Con-gress to seek their assistance in reversing Bush administration policies on detainees. n84 Congress's enactment of the MCA hewed closely to civilian preferences on the commissions and the designation of al Qaeda as illegal combatants. Although the Supreme Court, in Boumediene v. Bush, n85 reversed the MCA's effort to prohibit federal habeas corpus review over the detainees at Guantanamo Bay, n86 it has not yet addressed the substance of the MCA. All of this has led historians and political scientists to warn of a crisis in civil-military relations. Russell Weigley, a prominent military historian, compared General Powell's resistance to intervention in Bosnia to General McClellan's reluctance to engage General Lee during the Civil War. n87 By 2002, Richard Kohn, a distinguished military historian, had already concluded that "civilian control of the military has weakened in the United States and is threatened today." n88 According to Kohn, "the American military has grown in influence to the point of being able to impose its own per-spective on many policies and decisions." n89 He detects "no conspiracy but repeated efforts on the part of the armed forces to frustrate or evade civilian authority when that opposition seems likely to preclude outcomes the military dis-likes." n90 He believes that civilian-military relations in that period are as poor as in any other period in American histo-ry. n91 Michael Desch argues that the high tensions in civil-military relations are due [\*2292] not to the military but to the civilians, which have violated Huntington's advice in favor of "objective control" by giving the military broad dis-cretion over tactics and operations while keeping final say over politics and grand strategy. n92 In a 1999 study, Desch found that civilians prevailed in almost all of the seventy-five civil-military disputes from 1938 to 1997, but that the military has won in seven or eight of the twelve post-Cold War conflicts. n93 Some attribute this discord to the regular give-and-take inherent in the civil-military relationship, whereas others believe that the military has grown bold in ques-tioning the foreign policy decisions of the civilian leadership. n94

#### Plan doesn’t use international treaties to solve. That’s key per their Fairley evidence.

#### Drone program is sustainable.

Robert Chesney 12, professor at the University of Texas School of Law, nonresident senior fellow of the Brookings Institution, distinguished scholar at the Robert S. Strauss Center for International Security and Law, 8/29/12, “Beyond the Battlefield, Beyond Al Qaeda: The Destabilizing Legal Architecture of Counterterrorism,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2138623>

This multi-year pattern of cross-branch and cross-party consensus gives the impression that the legal architecture of detention has stabilized at last. But the settlement phenomenon is not limited to detention policy. The same thing has happened, albeit to a lesser extent, in other areas.¶ The military commission prosecution system provides a good example. When the Obama administration came into office, it seemed quite possible, indeed likely, that it would shut down the commissions system. Indeed, the new president promptly ordered all commission proceedings suspended pending a policy review.48 In the end, however, the administration worked with the then Democratic-controlled Congress to pursue a mend-it-don’t-end-it approach culminating in passage of the Military Commissions Act of 2009, which addressed a number of key objections to the statutory framework Congress and the Bush administration had crafted in 2006. In his National Archives address in spring 2009, moreover, President Obama also made clear that he would make use of this system in appropriate cases.49 He has duly done so, notwithstanding his administration’s doomed attempt to prosecute the so-called “9/11 defendants” (especially Khalid Sheikh Mohamed) in civilian courts. Difficult questions continue to surround the commissions system as to particular issues—such as the propriety of charging “material support” offenses for pre-2006 conduct50—but the system as a whole is far more stable today than at any point in the past decade.51¶ There have been strong elements of cross-party continuity between the Bush and Obama administration on an array of other counterterrorism policy questions, including the propriety of using rendition in at least some circumstances and, perhaps most notably, the legality of using lethal force not just in contexts of overt combat deployments but also in areas physically remote from the “hot battlefield.” Indeed, the Obama administration quickly outstripped the Bush administration in terms of the quantity and location of its airstrikes outside of Afghanistan,52 and it also greatly surpassed the Bush administration in its efforts to marshal public defenses of the legality of these actions.53 What’s more, the Obama administration also succeeded in fending off a lawsuit challenging the legality of the drone strike program (in the specific context of Anwar al-Awlaki, an American citizen and member of AQAP known to be on a list of approved targets for the use of deadly force in Yemen who was in fact killed in a drone strike some months later).54¶ The point of all this is not to claim that legal disputes surrounding these counterterrorism policies have effectively ended. Far from it; a steady drumbeat of criticism persists, especially in relation to the use of lethal force via drones. But by the end of the first post-9/11 decade, this criticism no longer seemed likely to spill over in the form of disruptive judicial rulings, newly-restrictive legislation, or significant spikes in diplomatic or domestic political pressure, as had repeatedly occurred in earlier years. Years of law-conscious policy refinement—and quite possibly some degree of public fatigue or inurement when it comes to legal criticisms—had made possible an extended period of cross-branch and cross-party consensus, and this in turn left the impression that the underlying legal architecture had reached a stage of stability that was good enough for the time being.

#### CMR crisis leads to nuclear war.

COHEN 1997 [Eliot, PhD from Harvard in political science, Professor of Strategic Studies at the Paul H. Nitze School of Advanced International Studies (SAIS) at the Johns Hopkins University, Director of the Strategic Studies Program at SAIS, served as Counselor to the United States Department of State under Secretary Condoleezza Rice from 2007 to 2009, http://www.fpri.org/americavulnerable/06.CivilMilitaryRelations.Cohen.pdf]

Left uncorrected, the trends in American civil-military relations could breed certain pathologies. The most serious possibility is that of a dramatic civil-military split during a crisis involving the use of force. In the recent past, such tensions did not result in open division. For example, Franklin Roosevelt insisted that the United States invade North Africa in 1942, though the chiefs of both the army and the navy vigorously opposed such a course, favoring instead a buildup in England and an invasion of the continent in 1943. Back then it was inconceivable that a senior military officer would leak word of such a split to the media, where it would have reverberated loudly and destructively. To be sure, from time to time individual officers broke the vow of professional silence to protest a course of action, but in these isolated cases the officers paid the accepted price of termination of their careers. In the modern environment, such cases might no longer be isolated. Thus, presidents might try to shape U.S. strategy so that it complies with military opinion, and rarely in the annals of statecraft has military opinion alone been an adequate guide to sound foreign policy choices. Had Lincoln followed the advice of his senior military advisers there is a good chance that the Union would have fallen. Had Roosevelt deferred to General George C. Marshall and Admiral Ernest J. King there might well have been a gory debacle on the shores of France in 1943. Had Harry S. Truman heeded the advice of his theater commander in the Far East (and it should be remembered that the Joint Chiefs generally counseled support of the man on the spot) there might have been a third world war. Throughout much of its history, the U.S. military was remarkably politicized by contemporary standards. One commander of the army, Winfield Scott, even ran for president while in uniform, and others (Leonard Wood, for example) have made no secret of their political views and aspirations. But until 1940, and with the exception of periods of outright warfare, the military was a negligible force in American life, and America was not a central force in international politics. That has changed. Despite the near halving of the defense budget from its high in the 1980s, it remains a significant portion of the federal budget, and the military continues to employ millions of Americans. More important, civil-military relations in the United States now no longer affect merely the closet-room politics of Washington, but the relations of countries around the world. American choices about the use of force, the shrewdness of American strategy, the soundness of American tactics, and the will of American leaders have global consequences. What might have been petty squabbles in bygone years are now magnified into quarrels of a far larger scale, and conceivably with far more grievous consequences. To ignore the problem would neglect one of the cardinal purposes of the federal government: “to provide for the common defense” in a world in which security cannot be taken for granted.

#### Obama will circumvent the plan

Anita Kumar 13, White House correspondent for McClatchy Newspapers, former writer for The Washington Post, covering Virginia politics and government, and spent a decade at the St. Petersburg Times, writing about local, state and federal government both in Florida and Washington, “Obama turning to executive power to get what he wants,” 3/19 <http://www.mcclatchydc.com/2013/03/19/186309/obama-turning-to-executive-power.html#.Ue18CdK1FSE>

Yet Obama’s use of power echoes that of his predecessors. For example, he signed 145 executive orders in his first term, putting him on track to issue as many as the 291 that Bush did in two terms.¶ John Yoo, who wrote the legal opinions that supported an expansion of presidential power after the 2001 terrorist attacks, including harsh interrogation methods that some called torture, said he thought that executive orders were sometimes appropriate – when conducting internal management and implementing power given to the president by Congress or the Constitution – but he thinks that Obama has gone too far.¶ “I think President Obama has been as equally aggressive as President Bush, and in fact he has sometimes used the very same language to suggest that he would not obey congressional laws that intrude on his commander-in-chief power,” said Yoo, who’s now a law professor at the University of California at Berkeley. “This is utterly hypocritical, both when compared to his campaign stances and the position of his supporters in Congress, who have suddenly discovered the virtues of silence.”¶ Most of Obama’s actions are written statements aimed at federal agencies that are published everywhere from the White House website to the Federal Register. Some are classified and hidden from public view.¶ “It seems to be more calculated to prod Congress,” said Phillip J. Cooper, the author of “By Order of the President: The Use and Abuse of Executive Direct Action.” “I can’t remember a president being that consistent, direct and public.”¶ Bush was criticized for many of his actions on surveillance and interrogation techniques, but attention has focused on Obama’s use of actions mostly about domestic issues.¶ In his first two years in the White House, when fellow Democrats controlled Capitol Hill, Obama largely worked through the regular legislative process to try to achieve his domestic agenda. His biggest achievements – including a federal health care overhaul and a stimulus package designed to boost the economy –came about with little or no Republican support.¶ But Republicans took control of the House of Representatives in 2010, making the task of passing legislation all the more difficult for a man with a detached personality who doesn’t relish schmoozing with lawmakers. By the next year, Obama wasn’t shy about his reasons for flexing his presidential power.¶ In fall 2011, he launched the “We Can’t Wait” campaign, unveiling dozens of policies through executive orders – creating jobs for veterans, adopting fuel efficiency standards and stopping drug shortages – that came straight from his jobs bills that faltered in Congress.¶ “We’re not waiting for Congress,” Obama said in Denver that year when he announced a plan to reduce college costs. “I intend to do everything in my power right now to act on behalf of the American people, with or without Congress. We can’t wait for Congress to do its job. So where they won’t act, I will.”¶ When Congress killed legislation aimed at curbing the emissions that cause global warming, Obama directed the Environmental Protection Agency to write regulations on its own incorporating some parts of the bill.¶ When Congress defeated pro-union legislation, he had the National Labor Relations Board and the Labor Department issue rules incorporating some parts of the bill.¶ “The president looks more and more like a king that the Constitution was designed to replace,” Sen. Charles Grassley, R-Iowa, said on the Senate floor last year.¶ While Republicans complain that Obama’s actions cross a line, experts say some of them are less aggressive than they appear.¶ After the mass shooting in Newtown, Conn., in December, the White House boasted of implementing 23 executive actions to curb gun control. In reality, Obama issued a trio of modest directives that instructed federal agencies to trace guns and send information for background checks to a database.¶ In his State of the Union address last month, Obama instructed businesses to improve the security of computers to help prevent hacking. But he doesn’t have the legal authority to force private companies to act.¶ “The executive order can be a useful tool but there are only certain things he can do,” said Melanie Teplinsky, an American University law professor who’s spoken extensively on cyber-law.¶ Executive actions often are fleeting. They generally don’t settle a political debate, and the next president, Congress or a court may overturn them.¶ Consider the so-called Mexico City policy. With it, Reagan banned federal money from going to international family-planning groups that provide abortions. Clinton rescinded the policy. George W. Bush reinstated it, and Obama reversed course again.¶ But congressional and legal action are rare. In 1952, the Supreme Court threw out Harry Truman’s order authorizing the seizure of steel mills during a series of strikes. In 1996, the District of Columbia Court of Appeals dismissed an order by Clinton that banned the government from contracting with companies that hire workers despite an ongoing strike.¶ Obama has seen some pushback.¶ Congress prohibited him from spending money to move inmates from the Guantanamo Bay U.S. naval base in Cuba after he signed an order that said it would close. A Chinese company sued Obama for killing its wind farm projects by executive order after he said they were too close to a military training site. A federal appeals court recently ruled that he’d exceeded his constitutional powers when he named several people to the National Labor Relations Board while the Senate was in recess.¶ But Obama appears to be undaunted.¶ “If Congress won’t act soon to protect future generations,” he told Congress last month, “I will.”

### Norms

#### All their “precedent” evidence relies on the assertion that there’s a causal link between U.S. drone doctrine and other’ countries choices---that’s not true---no tangible evidence

Kenneth Anderson 11, Professor of International Law at American University, 10/9/11, “What Kind of Drones Arms Race Is Coming?,” <http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/#more-51516>

New York Times national security correspondent Scott Shane has an opinion piece in today’s Sunday Times predicting an “arms race” in military drones. The methodology essentially looks at the US as the leader, followed by Israel – countries that have built, deployed and used drones in both surveillance and as weapons platforms. It then looks at the list of other countries that are following fast in US footsteps to both build and deploy, as well as purchase or sell the technology – noting, correctly, that the list is a long one, starting with China. The predicament is put this way: ¶ Eventually, the United States will face a military adversary or terrorist group armed with drones, military analysts say. But what the short-run hazard experts foresee is not an attack on the United States, which faces no enemies with significant combat drone capabilities, but the political and legal challenges posed when another country follows the American example. The Bush administration, and even more aggressively the Obama administration, embraced an extraordinary principle: that the United States can send this robotic weapon over borders to kill perceived enemies, even American citizens, who are viewed as a threat. ¶ “Is this the world we want to live in?” asks Micah Zenko, a fellow at the Council on Foreign Relations. “Because we’re creating it.” ¶ By asserting that “we’re” creating it, this is a claim that there is an arms race among states over military drones, and that it is a consequence of the US creating the technology and deploying it – and then, beyond the technology, changing the normative legal and moral rules in the international community about using it across borders. In effect, the combination of those two, technological and normative, forces other countries in strategic competition with the US to follow suit. (The other unstated premise underlying the whole opinion piece is a studiously neutral moral relativism signaled by that otherwise unexamined phrase “perceived enemies.” Does it matter if they are not merely our “perceived” but are our actual enemies? Irrespective of what one might be entitled to do to them, is it so very difficult to conclude, even in the New York Times, that Anwar al-Awlaki was, in objective terms, our enemy?) ¶ It sounds like it must be true. But is it? There are a number of reasons to doubt that moves by other countries are an arms race in the sense that the US “created” it or could have stopped it, or that something different would have happened had the US not pursued the technology or not used it in the ways it has against non-state terrorist actors. Here are a couple of quick reasons why I don’t find this thesis very persuasive, and what I think the real “arms race” surrounding drones will be. ¶ Unmanned aerial vehicles have clearly got a big push from the US military in the way of research, development, and deployment. But the reality today is that the technology will transform civil aviation, in many of the same ways and for the same reasons that another robotic technology, driverless cars (which Google is busily plying up and down the streets of San Francisco, but which started as a DARPA project). UAVs will eventually move into many roles in ordinary aviation, because it is cheaper, relatively safer, more reliable – and it will eventually include cargo planes, crop dusting, border patrol, forest fire patrols, and many other tasks. There is a reason for this – the avionics involved are simply not so complicated as to be beyond the abilities of many, many states. Military applications will carry drones many different directions, from next-generation unmanned fighter aircraft able to operate against other craft at much higher G stresses to tiny surveillance drones. But the flying-around technology for aircraft that are generally sizes flown today is not that difficult, and any substantial state that feels like developing them will be able to do so. ¶ But the point is that this was happening anyway, and the technology was already available. The US might have been first, but it hasn’t sparked an arms race in any sense that absent the US push, no one would have done this. That’s just a fantasy reading of where the technology in general aviation was already going; Zenko’s ‘original sin’ attribution of this to the US opening Pandora’s box is not a credible understanding of the development and applications of the technology. Had the US not moved on this, the result would have been a US playing catch-up to someone else. For that matter, the off-the-shelf technology for small, hobbyist UAVs is simple enough and available enough that terrorists will eventually try to do their own amateur version, putting some kind of bomb on it.¶ Moving on from the avionics, weaponizing the craft is also not difficult. The US stuck an anti-tank missile on a Predator; this is also not rocket science. Many states can build drones, many states can operate them, and crudely weaponizing them is also not rocket science. The US didn’t spark an arms race; this would occur to any state with a drone. To the extent that there is real development here, it lies in the development of specialized weapons that enable vastly more discriminating targeting. The details are sketchy, but there are indications from DangerRoom and other observers (including some comments from military officials off the record) that US military budgets include amounts for much smaller missiles designed not as anti-tank weapons, but to penetrate and kill persons inside a car without blowing it to bits, for example. This is genuinely harder to do – but still not all that difficult for a major state, whether leading NATO states, China, Russia, or India. The question is whether it would be a bad thing to have states competing to come up with weapons technologies that are … more discriminating.¶

#### They have no evidence says that international law is specifically useful in the context of drones, meaning aff doesn’t solve.

#### No risk of drone wars

Joseph Singh 12, researcher at the Center for a New American Security, 8/13/12, “Betting Against a Drone Arms Race,” http://nation.time.com/2012/08/13/betting-against-a-drone-arms-race/#ixzz2eSvaZnfQ

In short, the doomsday drone scenario Ignatieff and Sharkey predict results from an excessive focus on rapidly-evolving military technology. ¶ Instead, we must return to what we know about state behavior in an anarchistic international order. Nations will confront the same principles of deterrence, for example, when deciding to launch a targeted killing operation regardless of whether they conduct it through a drone or a covert amphibious assault team. ¶ Drones may make waging war more domestically palatable, but they don’t change the very serious risks of retaliation for an attacking state. Any state otherwise deterred from using force abroad will not significantly increase its power projection on account of acquiring drones. ¶ What’s more, the very states whose use of drones could threaten U.S. security – countries like China – are not democratic, which means that the possible political ramifications of the low risk of casualties resulting from drone use are irrelevant. For all their military benefits, putting drones into play requires an ability to meet the political and security risks associated with their use. ¶ Despite these realities, there remain a host of defensible arguments one could employ to discredit the Obama drone strategy. The legal justification for targeted killings in areas not internationally recognized as war zones is uncertain at best. ¶ Further, the short-term gains yielded by targeted killing operations in Pakistan, Somalia and Yemen, while debilitating to Al Qaeda leadership in the short-term, may serve to destroy already tenacious bilateral relations in the region and radicalize local populations. ¶ Yet, the past decade’s experience with drones bears no evidence of impending instability in the global strategic landscape. Conflict may not be any less likely in the era of drones, but the nature of 21st Century warfare remains fundamentally unaltered despite their arrival in large numbers.

#### Nuclear deterrence fails.

Thayer 7

Thayer (Missouri State University, Department of Defense and Strategic Studies) 7

(Bradley, Thinking about Nuclear Deterrence Theory: Why Evolutionary Psychology Undermines Its Rational Actor Assumptions, Comparative Strategy, 26:311–323)

The prefrontal cortex is the “guardian angel” of human behavior. In most cases, it forces us to take a step back from initial thoughts of rage. In these individuals, it is not normal, and as we move further away from the mean, we enter the realm of the extreme male mind, and further still, the dominion of the psychopath. That is, a person who does not fear and has no or little empathy, as revealed by patient interviews and tests such as fMRI and Positron Emission Tomography analyses, which document deficits in the prefrontal cortex for convicted murderers.22 The reasons why the extreme male mind would evolve might be due to the pressures of hunting, navigation, leading small bands of males, some of whom are potential rivals, defense against predation from animals or conspecifics, or battle. The power of these findings may be appreciated when we apply it to political decision makers. Leaders of states are far from a typical group of people. They are older than average, overwhelmingly male, with an overrepresentation of the characteristics of the extreme male mind including great ambition, a great sensitivity to threats, less sensitivity to fear, aggression, a high tolerance for risk and solitude or isolation, and low empathy for other humans.23 These behaviors are so common among political leaders or scientists that they are ordinary. Think of Isaac Newton’s ability to enter into seclusion for days while working on a theoretical problem, or Albert Einstein’s intense focus while doing the same. Consider as well Stalin’s reactions to mass killings (one death is a tragedy, a million deaths is a statistic) or, as a man, his reactions to his mother’s or son’s death.24 Mao’s mind must have worked remarkably like Stalin’s. Reflect on Mao’s similar reactions to mass killings during the 316 B. A. Thayer Revolution, the Great Leap Forward, and the Cultural Revolution, or, again at a personal level, as a man, to his son’s death in the Korean War.25 More recently, there have been numerous stories in the British Press about the behavior of Gordon Brown, who has been described as “a control freak,” “taciturn,” “uncooperative,” but, tellingly, really no different from most of those who are at the top of politics. According to one former British minister, who worked with Brown: “If being psychologically flawed means he focuses on details, almost obsessively so about the detail, then he is guilty as charged. He is a workaholic. He is difficult. But tell me which prime minister hasn’t been.”26 F. Scott Fitzgerald’s comment to Ernest Hemingway that the very rich really are different also applies to leaders’ brains. Clearly, the leader of a nuclear state with VMPC trauma or VMPC symptoms due to genetic causes would be a particularly difficult case to deter. He might be very willing to sacrifice a population or a segment of a population for the general will or an ideological goal. If we ponder the great leaders of history, we cannot know, of course, precisely how their brains functioned, but if we consider their behavior through its lens, some of their actions are more understandable. Ultimately, the behaviors associated with these variations in the male brain would have paid dividends for humans in the environments of evolutionary adaptation of the human past.27 These individuals have minds that are most likely to be ruthless, to be in positions of leadership, and to engage in bold and risk-accepting behavior, if unchecked by other factors, which will lead to deterrence failure.

#### No indo-pak war.

A. Vinod Kumar 6/30/13 MPhil in disarmament studies and an Associate Fellow at Institute for Defense Studies and Analyses, New Delhi, 6/30/13, "Nuclear Deterrence Works in Indo-Pak Ties," http://www.indepthnews.info/index.php/global-issues/1650-nuclear-deterrence-works-in-indo-pak-ties

NEW DELHI (IDN | [IDSA](http://www.idsa.in/)) - For over two decades, a dominant section of western analysts harped on the volatilities of the India and Pakistan nuclear dyad, often overselling the ‘South Asia as a nuclear flashpoint’ axiom, and portending a potential nuclear flare-up in every major stand-off between the two countries. The turbulence in the sub-continent propelled such presages, with one crisis after another billowing towards serious confrontations, but eventually easing out on all occasions. While the optimists described this as evidence of nuclear deterrence gradually consolidating in this dyad, the pessimists saw in it the ingredients of instability that could lead to a nuclear conflict. Though there is no denial of the fact that the three major crises since the 1998 nuclear tests – Kargil (1999), the Parliament attack and Operation Parakram (2001-2002) and the Mumbai terror strike (2008) – brought the two rivals precariously close to nuclear showdowns, not once had their leaderships lost complete faith in the efficacy of mutual deterrence.

#### Double bind - either

#### A) Fears of international backlash and creating a precedent for U.S. strikes prevent China drone use

**Erickson ‘13** – associate professor at the Naval War College and an Associate in Research at Harvard University’s Fairbank Center (Andrew, and Austin Strange, researcher at the Naval War College’s China Maritime Studies Institute and a graduate student at Zhejiang University, “China Has Drones. Now What?”, 2013, <http://www.foreignaffairs.com/articles/139405/andrew-erickson-and-austin-strange/china-has-drones-now-what?page=show>)

Indeed, the time to fret about when China and other authoritarian countries will acquire drones is over: they have them. The question now is when and how they will use them. But as with its other, less exotic military capabilities, **Beijing has cleared only a technological hurdle** -- **and its behavior will continue to be constrained by politics**.¶ China has been developing a drone capacity for over half a century, starting with its reverse engineering of Soviet Lavochkin La-17C target drones that it had received from Moscow in the late 1950s. Today, Beijing’s opacity makes it difficult to gauge the exact scale of the program, but according to Ian Easton, an analyst at the Project 2049 Institute, by 2011 China’s air force alone had over 280 combat drones. In other words, its fleet of unmanned aerial vehicles is already bigger and more sophisticated than all but the United States’; in this relatively new field Beijing is less of a newcomer and more of a fast follower. And the force will only become more effective: the Lijian (“sharp sword” in Chinese), a combat drone in the final stages of development, will make China one of the very few states that have or are building a stealth drone capacity.¶ This impressive arsenal may tempt China to pull the trigger. The fact that a Chinese official acknowledged that Beijing had considered using drones to eliminate the Burmese drug trafficker, Naw Kham, made clear that it would not be out of the question for China to launch a drone strike in a security operation against a nonstate actor. Meanwhile, as China’s territorial disputes with its neighbors have escalated, there is a chance that Beijing would introduce unmanned aircraft, especially since India, the Philippines, and Vietnam distantly trail China in drone funding and capacity, and would find it difficult to compete. Beijing is already using drones to photograph the Senkaku/Diaoyu Islands it disputes with Japan, as the retired Chinese Major General Peng Guangqian revealed earlier this year, and to keep an eye on movements near the North Korean border.¶ **Beijing**, however, **is unlikely to use its drones lightly**. **It already faces tremendous criticism** from much of the international community **for its perceived brazenness in** continental and maritime **sovereignty disputes**. **With its leaders attempting to allay notions that China’s rise poses a threat** to the region, **injecting drones** conspicuously into these disputes **would prove counterproductive. China also fears setting a precedent for the use of drones in East Asian hotspots that the U**nited **S**tates **could eventually exploit**. For now, **Beijing** is showing that it **understands these risks, and** to date it **has limited its use of drones** in these areas to surveillance, according to recent public statements from China’s Defense Ministry.¶ What about using drones outside of Chinese-claimed areas? **That China did not**, in fact, launch a drone **strike** on **the Burmese drug criminal underscores its caution**. According to Liu Yuejin, the director of the antidrug bureau in China’s Ministry of Public Security, **Beijing considered using a drone** carrying a 20-kilogram TNT payload **to bomb Kham’s mountain** redoubt in northeast Myanmar. Kham had already evaded capture three times, so a drone strike may have seemed to be the best option. The authorities apparently had at least two plans for capturing Kham. The method they ultimately chose was to send Chinese police forces to lead a transnational investigation that ended in April 2012 with Kham’s capture near the Myanmar-Laos border. **The** ultimate **decision to refrain** from the strike **may reflect** both **a fear of political reproach and a lack of confidence in untested drones, systems, and operators**.¶ **The restrictive position** that **Beijing takes on sovereignty in international forums will further constrain its use of drones**. **China is not likely to publicly deploy drones** for precision strikes or in other military assignments **without first having been granted a credible mandate to do so**. The gold standard of such an authorization is a resolution passed by the UN Security Council, the stamp of approval that has permitted Chinese humanitarian interventions in Africa and antipiracy operations in the Gulf of Aden. China might consider using drones abroad with some sort of regional authorization, such as a country giving Beijing explicit permission to launch a drone strike within its territory. But **even with** the **endorsement** of the international community or specific states, **China would have to weigh any benefits of a drone strike** abroad **against the potential for mishaps and perceptions** that **it was infringing on other countries’ sovereignty -- something Beijing regularly decries** when others do it.¶ The **limitations** on China’s drone use **are reflected in the country’s academic literature** on the topic. The bulk of Chinese drone research is dedicated to scientific and technological topics related to design and performance. The articles that do discuss potential applications primarily point to major combat scenarios -- such as a conflagration with Taiwan or the need to attack a U.S. aircraft carrier -- which would presumably involve far more than just drones. **Chinese researchers have thought a great deal about the utility of drones** **for** domestic **surveillance and law enforcement**, as well as for non-combat-related tasks near China’s contentious borders. **Few scholars**, **however**, **have** publicly **considered** the **use of drone strikes overseas**.¶ Yet there is a reason why the United States has employed drones extensively despite domestic and international criticism: it is much easier and cheaper to kill terrorists from above than to try to root them out through long and expensive counterinsurgency campaigns. Some similar challenges loom on China’s horizon. Within China, Beijing often considers protests and violence in the restive border regions, such as Xinjiang and Tibet, to constitute terrorism. It would presumably consider ordering precision strikes to suppress any future violence there. **Even if** such **strikes are operationally prudent, China’s leaders understand** that **they would damage the country’s image abroad**, but they prioritize internal stability above all else. Domestic surveillance by drones is a different issue; there should be few barriers to its application in what is already one of the world’s most heavily policed societies. China might also be willing to use stealth drones in foreign airspace without authorization if the risk of detection were low enough; it already deploys intelligence-gathering ships in the exclusive economic zones of Japan and the United States, as well as in the Indian Ocean.¶ Still, although China enjoys a rapidly expanding and cutting-edge drone fleet, it is bound by the same rules of the game as the rest of the military’s tools. Beyond surveillance, the other non-lethal military actions that China can take with its drones are to facilitate communications within the Chinese military, support electronic warfare by intercepting electronic communications and jamming enemy systems, and help identify targets for Chinese precision strike weapons, such as missiles. **Beijing’s overarching approach remains** one of **caution** -- something Washington must bear in mind with its own drone program.

#### OR

#### B) Actors can’t be checked which makes drone prolif and use inevitable

Wood 12 (David, American Drones Ignite New Arms Race From Gaza To Iran To China, Huffington Post, 27 November 2012, http://www.huffingtonpost.com/2012/11/27/american-drones\_n\_2199193.html, da 8-2-13) PC

Obama administration officials have said they are weighing various options to codify the use of armed U.S. drones, because the increased use of drones has been driven more by perceived necessity than by deliberative policy. But that effort is complicated by the wildfire spread of drone technology: how could the U.S. restrict its use of armed drones if others do not?¶ Already, the Pentagon is worried that China not only is engaged in an "alarming" effort to develop and field high-tech drones, but it intends to sell drone technology abroad, according to the Pentagon report.¶ Indeed, the momentum of the drone wars seems irresistible. "The increasing worldwide focus on unmanned systems highlights how U.S. military success has changed global strategic thinking and spurred a race for unmanned aircraft," the Pentagon study reported.¶ Modern drones were first perfected by Israel, but the U.S. Air Force took the first steps in 2001 to mount sophisticated drones with precision weapons. Today the U.S. fields some 8,000 drones and plans to invest $36.9 billion to boost its fleet by 35 percent over the next eight years.¶ Current research on next-generation drones seems certain to exacerbate the drone arms race. The U.S. and other countries are developing "nano" drones, tiny weapons designed to attack in swarms. Both the U.S. and China are working to incorporate "stealth" technology into micro drones. The Pentagon is fielding a new weapon called the Switchblade, a 5.5-pound precision-attack drone that can be carried and fired by one person -- a capability sure to be envied by terrorists.¶ "This is a robotics revolution, but it's not just an American revolution -- everyone's involved, from Hezbollah to paparazzi," Singer, the Brookings Institution expert, told The Huffington Post. "This is a revolution in which billions and trillions of dollars will be made. To stop it you'd have to first stop science, and then business, and then war."

#### No SCS conflict

Chaibi ‘13 -- 3rd year visiting student from Princeton University in the Department of Engineering Science (Abraham, 2013, "The outlook for continuing stability in the South China Sea," http://politicsinspires.org/the-outlook-for-continuing-stability-in-the-south-china-sea/)

East Asia’s rapid economic and military development has captured global attention, but pundits are quick to point to the South China Sea, North Korea, and Taiwan as potential obstacles to the region’s continued growth. Analysis of news coverage demonstrates that regional economies and tensions have been growing in tandem. The South China Sea has historically been of particular interest because of the number of conflicting claims on the islands and sea-lanes it encompasses. China, Malaysia, Brunei, the Philippines, Vietnam, and Taiwan, among others, have often engaged in bilateral disagreements with resulting spikes in diplomatic tension and even military confrontation. Of note, these conflicts have never escalated to a full-scale regional war. Direct extrapolation suggests that previous restraint in military interactions implies the nations involved do not consider the potential benefits sufficient to justify an upset to the balance of power. However, contemporary changes in economic and security conditions complicate the issue. While current tensions appear unlikely to lead to a full-scale military conflict, the diversion of national resources needed to maintain the status quo is substantial. Institutional changes to increase transparency; clarify US treaties with ASEAN nations; and increase states’ internal enforcement of international agreements, although initially costly, would allow the neighbouring states to redirect these resources to long-term growth. Historically, China has been involved in a majority of the military conflicts in the South China Sea. A 1947 Chinese map delineates China’s controversial claim to approximately 80% of the sea. China aggressively used its navy to conclude a dispute with Vietnam in the Battle of the Paracel Islands in 1974 and then in 1988 during the Johnson South Reef Skirmish for the Spratly Islands. Conflict was narrowly averted in 1995 when the Philippines chose not to shell fort-like Chinese military structures on Mischief Reef (China maintained they were only intended as shelter for fisherman); however, the Philippines continues to assert that this is an example of “creeping occupation”. This form of venting tensions, while far short of total war, is extremely costly over the long run; the combination of of resources, energy, and lives expended to establish a claim to the islands creates a significant and avoidable opportunity cost. These skirmishes are not merely an imprint of the 20th century but continue today as witnessed by the Chinese establishment of the Sansha garrison-city in 2012 and the Sino-Philippines stand-off in the Scarborough Shoal. What then is the evidence suggesting a continued reluctance to engage in full-scale military confrontation? Although in the past conflict has often arisen between economically interdependent nations (viz. the previous peak of global trade in 1914), the China-ASEAN relationship is one of fundamental interdependence of production, visible in the prevalence of international supply chaining in manufacturing processes, rather than solely trade and labour movement[i]. The burgeoning economic interdependence and growth of neighbouring states contributes a major incentive to prevent a conflagration. $5.3 trillion of trade, of which approximately 20% is US, transits the South China Sea annually and any interruption would not only severely restrict regional trade revenues, but would also very likely guarantee US military intervention[ii]. The Association of South East Asian Nations (ASEAN) is becoming increasingly interconnected and 2015 will mark a key turning point with the opening of internal ASEAN borders for free movement of labor. The ASEAN bloc has also concluded a number of reconciliation agreements with China. Regarding security, both the 2002 Code of Conduct and the 2011 Guidelines to the Code of Conduct are intended to help coordinate diplomacy and maintain peace in South China Sea disputes. Economically China has been ASEAN’s largest trading partner since 2009, and at its opening in 2010 the ASEAN-China free trade area (ACFTA) became the largest in the world by population. These arrangements come at a time when growing estimates of the value of the natural resources contained in the South China Sea are generating pressures associated with ensuring energy security. Economic interdependence between China and ASEAN, however, is not the sole factor at play. In areas with considerable interstate tension sub-state actors have often contributed to the deterioration of international relations, most prominently with the assassination of Archduke Franz Ferdinand tipping Europe into World War I. Recent developments in state-level Chinese political and military discourse reflect a strong interest in cooperation. Chinese President Hu Jintao’s 2011 discussions with Filipino President Corazon Aquino firmly expressed the hope that “the countries concerned may put aside disputes and actively explore forms of common development in the relevant sea areas”[iii]. Additionally in 2011 the Chinese State Council Information Office released a white paper with a similar emphasis on joint development. Yet China is also reported to have developed internal fractures in its South China Sea policy, with a number of different ministries controlling paramilitary units that are not under express government oversight[iv]. For example, the Bureau of Fisheries Administration (BFA) now directs a relatively well-equipped law enforcement fleet that is tasked with patrolling Chinese-owned fishing areas. Such interest groups repeatedly instigate minor disputes with their ASEAN counterparts and the US navy that exacerbate state-level discussions and risk eventually drawing unintended consequences (characteristically, in 2004 two BFA vessels obstructed a US Navy surveillance ship in the Yellow Sea). The region has also seen a rise in high-tech militarization, with rapid development in areas ranging from aircraft carriers and submarines to cyber-espionage; this is likely to further increase due to the 2011 US “pivot to Asia” and military surge. The pivot is considered to be a sign that the US intends to continue playing a leadership role in East Asia, a strategy at odds with China’s vision[v]. An associated complication is the imprecise definition of US commitments to its ally nations in the event of disputes in contested territories, especially vis-à-vis the Philippines and Vietnam, and the possibility that alliances will be used to escalate a small battle into a regional affair. The US is making efforts to address these complications; for the first time since RIMPACS’s creation in 1971, China has been invited to participate in a US-led naval exercise. Positive near-term repercussions of growing US involvement have also been postulated; analysts suggest that one of the root causes behind Chinese interest in cooperation is the fear that aggression in the South China Sea will drive other parties to strengthen their ties with the US[vi]. The relative wealth of economic and diplomatic compromises on all sides presents a compelling argument that under current conditions, disputes in the South China Sea will continue to be restrained to small-scale skirmishes that do not threaten overall stability. This is not to say that the increase in regional tension is insignificant, but rather that the involved parties all have a strong interest in maintaining mutual growth and have demonstrated their willingness to make strategic sacrifices to maintain the status quo. Furthermore as China is the common link in the majority of the disputes, it is probable that it will be at the heart of any conflict — and China has frequently shown restraint in this regard (though not so, for example, in Tibet). In terms of China’s priorities, policy analysts tend to agree that if China were to begin a large-scale military campaign, Taiwan would most likely be the focus of its aggression[vii].

### Pakistan

#### Drone strikes are less utilized in the status quo, and are killing record low levels of civilians- takes out their Internal link to instability

Cahall 13 (Bailey, research associate with the National Security Studies Program at the New America Foundation, July 2nd 2013, New report says CIA drone strikes in Pakistan at an all-time low, afpak.foreignpolicy.com/posts/2013/07/02/report\_cia\_drone\_strikes\_in\_pakistan\_at\_all\_time\_low

A new report released by the Bureau of Investigative Journalism on Monday notes that the number of reported civilian deaths caused by the CIA's drone campaign in Pakistan is at an all-time low (ET). The drone strikes are at their lowest level since early 2008, and the average number of people killed in each strike has also fallen sharply over the last few years. Similar data from the New America Foundation shows that, to date, there have been 13 drone strikes in Pakistan and 82 people have been killed, down from the record 122 strikes and 849 people killed in 2010. Peter Bergen and Jennifer Rowland have written repeatedly about the sharply falling civilian casualty rate for the past year on CNN.com.

#### Their Pakistan ev is about the people overall hating drone strikes – no reasons why limiting TK solves that.

#### The alternative to drones in Pakistan is full-scale military operations---obviously worse for all their impacts.

Llenza, Senior Navy Fellow at the Atlantic Council and Foreign Affairs Specialist, ‘11

[Michael, NATO ISAF, Spring 2011, “Targeted Killings in Pakistan: A Defense,” Global Security Studies, Vol. 2, No. 2, <http://globalsecuritystudies.com/Targeted%20Killings.pdf>]

Regardless of the possibility of civilian deaths, if the United States continues its policy of targeted killings, which by all signs it appears to, then the humanitarian benefits of drone strikes far outweigh their costs of the alternative. Predator strikes introduce greater discrimination in targeting than full-scale military assault or large-scale warfare would permit (Anderson, 2009, p.8). They allow the United States to seek out those who mean it harm without having to launch a full-scale invasion or placing U.S. forces at risk. Without placing U.S. and coalition forces at risk, the government can go after the terrorist without the fear of a counterassault that might increase the use of force and cause more collateral damage (Anderson, 2009, pp.7-8). ¶ Although some may see military action on the ground more palatable than a standoff killing, invading a hostile area that is predominantly civilian would inevitably result in the death and injury of far more innocent people than those caused by targeted drone strikes. In addition, this measure is more commensurate with the conditions of self-defense, that those killed be responsible for the threat being posed (Statman). Furthermore, as a strategic option, drone strikes are a prudent alternative to what may otherwise result in a larger, costlier and undesirable conflict (Anderson, 2010, p.32). ¶ Some critics of the drone operations would rather see Pakistan go after these terrorists, but from a humanitarian standpoint, one need only consider the political unreliability of their government along with the ineffectiveness of the Pakistani army and its penchant for long range artillery barrages over counterinsurgency (The Daily Times, 2010; Anderson, 2009, pp.8-9). Pakistani researchers’ state that attacks by the Pakistani military have caused far more collateral deaths than those by drones with relatively no success (Rodriguez & Zucchino).

#### Drones irrelevant to Pakistan stability- multiple alternatives cause.

Javaid ’11 (Umbreen, Director Center of Asian Studies & Chairperson Department of political science University of Punjab, “Thriving Fundamentalism and Militancy in Pakistan An Analytical Overview of their Impact on the Society,” South Asian Studies, Vol. 26 No. 1. Pg. 16-17)  
 ‘The recent increase of violence by jihadi groups, including suicide bombing of ¶ innocent bystanders as well attacks on the police and military, has perhaps brought ¶ more Pakistanis to consider how to strike a new balance between Islam and ¶ politics’ (Oldenburg, 2010: 158). ‘The Pakistani people also need to change their ¶ attitude, especially their outlook on religion. Suffered with anti-Americanism and ¶ religious fervor, Pakistanis are filtering their worldview through the prism of ¶ religion and the tensions between Islam and the West, making them to the radical ¶ propaganda and paralyzing their will to act against forces of extremism’ (Hussain, ¶ 2009: 11). mbreen Javaid Thriving Fundamentalism and ¶ 17¶ It is not only the task of the government to control this growing ¶ fundamentalism but the whole society needs to completely shun off these ¶ extremists. The political parties, intellectuals, sectarian and religious parties and ¶ the masses all have to openly condemn the extremists, so that they do not find any ¶ space to flourish. ‘Much still needs to be done on the home front curb religious ¶ zealotry and sectarianism, policies towards minorities, revision of school curricula, ¶ reconstructing ‘official’ history, promotion of universal education, and ¶ overhauling of the madrassah system’ (Niaz, 2011: 181). The best way to curtail the thriving fundamentalism in Pakistan is to look ¶ deeply into its causes. The whole society and especially the government needs to ¶ put in serious efforts in controlling on checking the causes if not diminishing ¶ them. It should also be understand that the issue of fundamentalism is very ¶ complex which entails number of factors which are playing their part. These ¶ include economic disparity, lack of education, religious ignorance, unemployment, ¶ extremism, judicial system, poor governance, ethnicity and sectarianism, ¶ corruption and alignment with United States, each of these have played their role ¶ separately and also a combined mix of all in flourishing militant fundamentalism ¶ in Pakistan. To control fundamentalism is not an easy task especially when it is ¶ now combined with militancy. Another major challenge for the government is that ¶ earlier the various militant extremist groups were operating separately and had ¶ divergent aims and objectives from each other but lately various local groups, AlQaeda and Taliban have all joined hands and helping each other irrespective of ¶ their particular objectives. These alignments have made these militant groups more ¶ lethal, thus making things more difficult for the government. ¶ Militant fundamentalism not only has the ability to destabilize Pakistan but it ¶ can, if not controlled, bring about serious security concerns for the region and also ¶ towards the global security and peace.

**No Pakistani collapse.**

Dasgupta, Ph.D. in political science and the director of UMBC's Political Science Program and a senior fellow at Brookings, ‘13

[Sunil, 2/25/13, "How will India respond to civil war in Pakistan," East Asia Forum, http://www.eastasiaforum.org/2013/02/25/how-will-india-respond-to-civil-war-in-pakistan/]

¶ As it is, **India and Pakistan have gone down to the nuclear edge four times** — in 1986, 1990, 1999 and 2001–02. In each case, India responded in a manner that did not escalate the conflict. **Any incursion into Pakistan was** extremely limited. An Indian intervention in a civil war in Pakistan would be subject to the same limitations — at least so long as the Pakistani army maintains its integrity.¶ **Given the new US–India ties, the** most important factor in determining the **possibility and nature of Indian intervention in a possible Pakistani civil war** is Washington. **If the** United States **is able to get Kabul and Islamabad to work together** against the Taliban, **as it is trying to do now, then India is likely to continue its current policy** or try to preserve some influence in Afghanistan, especially working with elements of the Northern Alliance.¶ India and Afghanistan already have a strategic partnership agreement in place that creates the framework for their bilateral relationship to grow, but the degree of actual cooperation will depend on how Pakistan and the Taliban react. If Indian interests in Afghanistan come under attack, New Delhi might have to pull back. The Indian government has been quite clear about not sending troops to Afghanistan.¶ If the United States shifts its policy to where it has to choose Kabul over Islamabad, in effect reviving the demand for an independent Pashtunistan, India is likely to be much more supportive of US and Afghan goals. The policy shift, however, carries the risk of a full-fledged proxy war with Pakistan in Afghanistan, but should not involve the prospect of a direct Indian intervention in Pakistan itself.¶ **India is not likely to initiate an intervention that causes the Pakistani state to fail**. Bill Keller of the New York Times has described Pakistani president Asif Ail Zardari as overseeing ‘a ruinous kleptocracy that is spiraling deeper into economic crisis’. But **in contrast to predictions of an unravelling nation**, British journalist-scholar Anatol Lieven argues that the Pakistani state is likely to continue muddling through its many problems, unable to resolve them but equally predisposed against civil war and consequent state collapse. Lieven finds that the strong bonds of family, clan, tribe and the nature of South Asian Islam prevent modernist movements — propounded by the government or by the radicals — from taking control of the entire country.¶ Lieven’s analysis is more persuasive than the widespread view that Pakistan is about to fail as a state. The formal institutions of the Pakistani state are surprisingly robust given the structural conditions in which they operate. Indian political leaders recognise Pakistan’s resilience. **Given the bad choices in Pakistan**, they would rather not have anything to do with it. **If there is going to be** a **civil war, why not wait for the two sides to exhaust themselves before thinking about intervening?** The 1971 war demonstrated India’s willingness to exploit conditions inside Pakistan, but **to break from tradition requires** strong, countervailing logic, and those elements do not yet exist. Given the current conditions and those in the foreseeable future, India is likely to sit out a Pakistani civil war while covertly coordinating policy with the United States.

#### Even massive economic decline has zero chance of war

Robert Jervis 11, Professor in the Department of Political Science and School of International and Public Affairs at Columbia University, December 2011, “Force in Our Times,” Survival, Vol. 25, No. 4, p. 403-425

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy and bring back old-fashioned beggar-my-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that even if the more extreme versions of free trade and economic liberalism become discredited, it is hard to see how without building on a preexisting high level of political conflict leaders and mass opinion would come to believe that their countries could prosper by impoverishing or even attacking others. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that the very fact that we have seen such a sharp economic down-turn without anyone suggesting that force of arms is the solution shows that even if bad times bring about greater economic conflict, it will not make war thinkable.

# 2NC

## CP

### Perm Do Both – Drones

#### Unilateral action defuses opposition

Moe and Howell 99

(Terry Moe, William Bennett Munro professor of political science at Stanford University, a senior fellow at Stanford University's Hoover Institution, and a member of the Hoover Institution’s Koret Task Force on K-12, William Howell, the Sydney Stein Professor in American Politics in the Harris School, a professor in the Department of Political Science and the College, and a co-director of the Program on Political Institutions, “The Presidential Power of Unilateral Action” 1999, Oxford University Press, <http://jleo.oxfordjournals.org.ezproxy.baylor.edu/content/15/1/132.full.pdf>, KB)

On the other hand, the second form of agenda control, rooted as it is in unilateral action, gives the president what he wants immediately – a shift in the status quo, and perhaps a new increment to his new power – and depends for its success on Congress’s not being able to pass new (and veto-proof) legislation that would overturn or change it. Such a requirement is much more readily met, for it is far easier, by many order of magnitude, to block congressional action than it is to engineer new legislation. And if this were not enough, the new status quo initiated by the president may in itself defuse legislative opposition and do away with the need to block at all. When a president unilaterally launches an invasion of another country, for instance, Congress faces a drastically different set of options than it did before the conflict started, and may find itself politically compelled to support and provide funds for an exercise it never would have agreed to beforehand. Needless to say, these advantages of agenda control give modern presidents strong incentives to favor an “administrative strategy” of leadership as opposed to a “legislative strategy” (Nathan, 1983).

### A2: Links to Flex DA

#### Our links are about geographical limitations on war fighting – the CP doesn’t do that.

#### Executive Orders best preserve presidential flexibility—saves time and solves for future crises

Machon 6 [MAJ Matthew J, writing for the School of Advanced Military Studies US Army Command and General Staff College, “Targeted Killing as an Element of U.S. Foreign Policy in the War on Terror”, A Monograph, School of Advanced Military Studies, 2006, [http://www.dtic.mil/dtic/tr/fulltext/u2/a450537.pdf]AM](http://www.dtic.mil/dtic/tr/fulltext/u2/a450537.pdf%5dAM)

“The true effect of the executive order is neither to restrict in any meaningful way the ¶ President’s ability to direct measures he determines to be necessary to national security.”68 The ¶ advantage of an executive order over congressional legislation banning assassination is its ¶ inherent flexibility. Issuing an executive order can usually be accomplish in far less time than ¶ enacting legislation, and if a president wishes to rescind or modify the executive order at any ¶ time, he has the authority.69 “Additionally, the President may designate any of these changes as ¶ classified if he considers them ‘intelligence activities . . . or intelligence sources and methods,’ ¶ effectively preventing them from ever reaching public view.”70¶ As revealed in the sections above the executive order banning assassination allows the ¶ President a significant amount of flexibility in policy-making given the ambiguity presented by ¶ the failure to define assassination. The assassination ban, loose as that ban might be, may also be ¶ circumvented through a number of executive actions. The President may request a declaration of ¶ war, under which foreign leaders could possibly be classified as combatants and therefore legally ¶ targeted. The President might invoke the United States’ rights under Article 51 of the United ¶ Nation’s Charter, the right of self-defense, which authorizes the state’s use of force equivalent to ¶ a declaration of war.71 According to Colonel Parks, ¶ acting consistent with the Charter of the United Nations, a decision by the ¶ President to employ clandestine, low visibility or overt military force would not¶ constitute assassination if the U.S. military forces were employed against the ¶ combatant forces of another nation, a guerrilla force, or a terrorist or other ¶ organization whose actions pose a threat to the security of the United States.72¶

### A2: Theory

#### 1 – Education - 90% debate is implementation

Elmore 80

Prof. Public Affairs at University of Washington, PolySci Quarterly 79-80, p. 605, 1980

The emergence of implementation as a subject for policy analysis coincides closely with the discovery by policy analysts that decisions are not self-executing. Analysis of policy choices matter very little if the mechanism for implementing those choices is poorly understood in answering the question, "What percentage of the work of achieving a desired governmental action is done when the preferred analytic alternative has been identified?" Allison estimated that in the normal case, it was about 10 percent, leaving the remaining 90 percent in the realm of implementation.

#### 2 – Fairness - Aff gets to pick their agent and have advantages tied to that agent we should get to test it.

#### 3. Its predictable – Executive action v Congress is a huge debate in the literature

Bejesky 12

(ROBERT BEJESKY, M.A. Political Science (Michigan), M.A. Applied Economics (Michigan), LL.M. International Law (Georgetown), St. Mary's Law Journal ARTICLE: WAR POWERS PURSUANT TO FALSE PERCEPTIONS AND ASYMMETRIC INFORMATION IN THE "ZONE OF TWILIGHT" 2012, LexisNexis, KB)

There are many reasons the expansion of the Executive Branch make it more difficult for Congress to preserve its institutional power. n372 First, Congress loses control over aspects of an agency's jurisdiction after delegating authority because Congress can only fund and oversee the bureaucracy, but cannot interfere with rule-making or otherwise retain a legislative veto.n373 Second, Congress lacks the institutional memory that [\*62] exists in administrative agencies. n374 Agency employees are civil servants working within the history of the organization, while members of Congress have more frequent turnover rates and concentrate their attention on current affairs. Third, the resources and privilege to information available to the Executive Branch vastly outweighs those resources available to the Legislative Branch. n375 For example, Congress has a workforce of 30,000 and a total budget of $ 4.7 billion, while defense- and security-related agencies have three million employees and a budget of $ 639 billion. n376 Hence, even if Congress did attempt to announce a preferred foreign policy, it has few institutions to execute it. n377 Fourth, the President appoints agency leadership with similar political predispositions, which in turn increases conformity to preferred policies within the agency. n378 Congress has some authority to set parameters for executive appointments, but may not infringe upon the President's main power of appointment. n379 For example, with regard to war powers, [\*63] Congress cannot divest Commander in Chief functions to another official, even though Congress has considerable power to assign specific functions to executive officials or employees who are "independent" of the President. n380 Fifth, the President possesses the authority to enter into treaties and executive agreements, conduct diplomacy, and interact with international organizations, which give the Executive substantial dominion over foreign policy. n381 Thus, Congress is more effective in constraining the President's powers with regard to domestic affairs. n382

#### 4. Reject the arg, not the team

### A2: No Model/Transparency/Signal

#### Extend 1NC Zenko evidence other countries look to the voice of the president when it looks at our drone policy – their author concedes that the CP is sufficient.

#### The CP is modeled – the president is seen as the decisive voice of America, even if Congress hasn’t signed on

Zbigniew Brzezinski, national security advisor under U.S. President Jimmy Carter, 12/3/12, Obama's Moment, www.foreignpolicy.com/articles/2012/12/03/obamas\_moment

In foreign affairs, the central challenge now facing President Barack Obama is how to regain some of the ground lost in recent years in shaping U.S. national security policy. Historically and politically, in America's system of separation of powers, it is the president who has the greatest leeway for decisive action in foreign affairs. He is viewed by the country as responsible for Americans' safety in an increasingly turbulent world. He is seen as the ultimate definer of the goals that the United States should pursue through its diplomacy, economic leverage, and, if need be, military compulsion. And the world at large sees him -- for better or for worse -- as the authentic voice of America. To be sure, he is not a dictator. Congress has a voice. So does the public. And so do vested interests and foreign-policy lobbies. The congressional role in declaring war is especially important not when the United States is the victim of an attack, but when the United States is planning to wage war abroad. Because America is a democracy, public support for presidential foreign-policy decisions is essential. But no one in the government or outside it can match the president's authoritative voice when he speaks and then decisively acts for America. This is true even in the face of determined opposition. Even when some lobbies succeed in gaining congressional support for their particular foreign clients in defiance of the president, for instance, many congressional signatories still quietly convey to the White House their readiness to support the president if he stands firm for "the national interest." And a president who is willing to do so publicly, while skillfully cultivating friends and allies on Capitol Hill, can then establish such intimidating credibility that it is politically unwise to confront him. This is exactly what Obama needs to do now.

#### President action solves the signaling of the aff.

Singer, director – Center for 21st Century Security and Intelligence @ Brookings, and Wright, senior fellow – Brookings, 2/7/’13

[Peter W. and Thomas, "Obama, own your secret wars", www.nydailynews.com/opinion/obama-secret-wars-article-1.1265620]

It is time for a new approach. And all that is required of the President is to do the thing that he does perhaps best of all: to speak.¶ **Obama has a unique opportunity** — in fact, an urgent obligation — **to create a new doctrine**, unveiled in a major presidential speech, **for the use** and deployment **of these new tools of war**.¶ While the Republicans tried to paint the President as weak on security issues in the 2012 elections, history will record instead that his administration pushed into new frontiers of war, most especially in the new class of technologies that move the human role both geographically and chronologically further from the point of action on the battlefield.¶ The U.S. military’s unmanned systems, popularly known as “drones,” now number more than 8,000 in the air and 12,000 on the ground. And in a parallel development, the U.S. Cyber Command, which became operational in 2010, has added an array of new (and controversial) responsibilities — and is set to quintuple in size.¶ This is not just a military matter. American intelligence agencies are increasingly using these technologies as the tips of the spear in a series of so-called “shadow wars.” These include not only the more than 400 drone strikes that have taken place from Pakistan to Yemen, but also the deployment of the Stuxnet computer virus to sabotage Iranian nuclear development, the world’s first known use of a specially designed cyber weapon.¶ Throughout this period, **the administration has tried to** have it both ways — leaking out success stories of our growing **use** of **these** new **technologies but not** tying its hands **with official statements and set policies**.¶ This made great sense at first, when much of what was happening was ad hoc and being fleshed out as it went along.¶ But that position has become unsustainable. The less the U.S. government now says about our policies, the more that vacuum is becoming filled by others, in harmful ways.¶ By acting but barely explaining our actions, **we’re creating precedents for other states to exploit**. More than 75 countries now have military robotics programs, while another 20 have advanced cyber war capacities. Rest assured that nations like Iran, Russia and China will use these technologies in far more crude and indiscriminate ways — yet will do so while claiming to be merely following U.S. footsteps.¶ In turn, international organizations — the UN among them — are pushing ahead with special investigations into potential war crimes and proposing new treaties.¶ Our leaders, meanwhile, stay mum, which isolates the U.S. and drains its soft power.¶ The current policy also makes it harder to respond to growing concerns over civilian casualties. Indeed, Pew polling found 96% levels of opposition to U.S. drones in the key battleground state of Pakistan, a bellwether of the entire region. It is indisputable than many civilians have been harmed over the course of hundreds of strikes. And yet it is also indisputable that various groups have incentives to magnify such claims.¶ Yet so far, U.S. officials have painted themselves into a corner — either denying that any collateral losses have occurred, which no one believes, or reverting to the argument **that we cannot confirm or deny our involvement**, which no one believes, either.¶ Finally, the domestic support and legitimacy needed for the use of these weapons is in transition. Polling has found general public support for drone strikes, but only to a point, with growing numbers in the “not sure” category and growing worries around cases of targeting U.S. citizens abroad who are suspected of being terrorists.¶ The administration is so boxed in that, even when it recently won a court case to maintain the veil of semi-silence that surrounds the drone strike program, the judge described the current policy as having an “Alice in Wonderland” feel.¶ The White House seems to be finally starting to realize the problems caused by this disconnect of action but no explanation. **After years of silence**, occasional statements by senior aides are acknowledging the use of drones, while **lesser-noticed working level documents have been created to formalize strike policies** and even to explore what to do about the next, far more autonomous generation of weapons.¶ **These** efforts have been **good starts**, but they **have been disjointed and partial**. Most important, they are missing the much-needed stamp of the President’s voice and authority, which is essential to turn tentative first steps into established policy.¶ Much remains to be done — and said — out in the open.¶ This is why **it’s time for Obama’s voice to ring loud and clear**. Much as Presidents Harry Truman and Dwight Eisenhower were able keep secret aspects of the development of nuclear weapons, even as they articulated how and when we would use them, **Obama should publicly lay out criteria by which the U**nited **S**tates **will develop**, **deploy and use these new weapons**.¶ The President has a strong case to make — if only he would finally make it. After all, the new weapons have worked. They have offered new options for military action that are more accurate and proportionate and less risky than previously available methods.¶ But they have also posed many new complications. Explaining our position is about embracing both the good and the bad. It is about acknowledging the harms that come with war regardless of what technology is being used and making clear what structures of accountability are in place to respond.¶ **It’s** also **about** finally **defining where America** truly **stands on** some of **the** most **controversial questions**. These include the tactics of “signature” strikes, where the identity is not firmly identified, and “double tap” strikes, where rescuers aiding victims of a first attack are also brought under fire. These have been reported as occurring and yet seem to run counter to the principles under which the programs have been defended so far.¶ **The role of the President is** not to conduct some kind of retrospective of what we have done and why, but **to lay out a course of the future**. What are the key strategic goals and ethical guidelines that should drive the development and use of these new technologies? Is current U.S. and international law sufficient to cover them?¶ There are also crucial executive management questions, like where to draw the dividing line between military and civilian intelligence agency use of such technologies, and how to keep a growing range of covert actions from morphing into undeclared and undebated wars.¶ And, finally, **the President must help resolve growing tensions between the executive** branch **and** an increasingly restive **Congress**, including how to handle situations where we create the effect of war but no U.S. personnel are ever sent in harm’s way.¶ Given the sprawling complexity of these matters, only the President can deliver an official statement on where we stand. If only we somehow had a commander in chief who was simultaneously a law professor and Nobel Peace Prize winner!¶ The President’s voice on these issues won’t be a cure-all. But it will lay down a powerful marker, shaping not just the next four years but the actions of future administrations.

#### Comparative evidence proves that it sets a precedent.

Atkinson 2013 – JD NYU, National Security Division, Department of Justice (L. Rush, Vanderbilt Law Review, forthcoming issue, “The Fourth Amendment’s National Security Exception”, http://ssrn.com/abstract=2226404)

When identifying constitutional parameters for the executive, it is particularly instructive to look at historical moments when the executive is restrained. When congressional prohibition draws executive power to its “ebb,” for example, one can identify the executive’s core inextinguishable powers.47 Constitutional boundaries are similarly discernible in some cases where the executive branch **limits its own** conduct. Specifically, the executive’s self-restraint is precedential when it stems from a sense of constitutional obligation.48 Such fealty towards the Constitution might be **unprompted by judicial command or legislative action**, and there may be no record as obvious as a judicial opinion or legislative bill. Nevertheless, where a discernible opinio juris has shaped executive action, such legal opinion should be considered both for its persuasive power and a historical understanding about what protections the Constitution establishes.49

#### The CP alone is the best way to boost U.S. legitimacy---bargaining theory proves that making concessions to critics of our drone policy encourages them to move the goalposts and never be satisfied---informing them of the rationale behind targeted killings with a “take it or leave it” stance encourages bandwagoning. Reject their ev by activists and academics---they always call for the most restrictive measures but their perspective’s irrelevant to actual inter-state relations.

Anderson, Professor of International Law at American University, ‘11

[Kenneth, 10/3/11, “Public Legitimacy for Targeted Killing Using Drones,” <http://www.volokh.com/2011/10/03/public-legitimacy-for-targeted-killing-using-drones/>]

Jack Goldsmith, writing at Lawfare, urges the Obama administration to release a redacted version of the Justice Department’s memo concluding that the targeting of Al-Awlaki was lawful – if not a redacted version, then some reasonably complete and authoritative statement of its legal reasoning. I agree. The nature of these operations abroad is that they will almost certainly remain beyond judicial review and, as a consequence, OLC opinions will serve as the practical mechanism of the rule of law. ¶ The best argument against disclosure is that it would reveal classified information or, relatedly, acknowledge a covert action. This concern is often a legitimate bar to publishing secret executive branch legal opinions. But the administration has (in unattributed statements) acknowledged and touted the U.S. role in the al-Aulaqi killing, and even President Obama said that the killing was in part “a tribute to our intelligence community.” I understand the reasons the government needs to preserve official deniability for a covert action, but I think that a legal analysis of the U.S. ability to target and kill enemy combatants (including U.S. citizens) outside Afghanistan can be disclosed without revealing means or methods of intelligence-gathering or jeopardizing technical covertness. The public legal explanation need not say anything about the means of fire (e.g. drones or something else), or particular countries, or which agencies of the U.S. government are involved, or the intelligence basis for the attacks. (Whether the administration should release more information about the intelligence supporting al-Aulaqi’s operational role is a separate issue that raises separate classified information concerns.) We know the government can provide a public legal analysis of this sort because presidential counterterrorism advisor John Brennan and State Department Legal Advisor Harold Koh have given such legal explanations in speeches, albeit in limited and conclusory terms. These speeches show that there is no bar in principle to a public disclosure of a more robust legal analysis of targeted killings like al-Aulaqi’s. So too do the administration’s many leaks of legal conclusions (and operational details) about the al-Aulaqi killing. ¶ The public accountability and legitimacy of these vital national security operations is strengthened to the extent that the public is informed and, through the political branches, part of the debate on the law of targeted killing. That cannot be operational discussion, for obvious reasons. But there is still a good deal that could be said about the underlying legal rationales, without compromising security. I myself favor revisions, either as internal executive branch policy or, in a better world, as formal legal revisions to Title 50 (CIA, covert action, etc.) and the oversight and reporting processes. One of those revisions would be to get beyond the not just silly, but in some deeper way, de-legitimizing insistence that these operations cannot be acknowledged even as a program; I would establish a distinct category of “deniable” rather than “covert,” and a category of programs that can be acknowledged as existing even without comment on particular operations. ¶ John Bellinger, the former State Department Legal Adviser in the last years of the Bush administration, raises concerns in the Washington Post today about the best way to defend the international legitimacy of these operations. He notes the deep hostility of the international advocacy groups, UN special raporteurs, numbers of foreign governments, and the studied silence of US allies (even as NATO, I’d add, has relied upon drones as an essential element of its Libyan air war). ¶ [T]he U.S. legal position may not satisfy the rest of the world. No other government has said publicly that it agrees with the U.S. policy or legal rationale for drones. European allies, who vigorously criticized the Bush administration for asserting the unilateral right to use force against terrorists in countries outside Afghanistan, have neither supported nor criticized reported U.S. drone strikes in Pakistan, Yemen and Somalia. Instead, they have largely looked the other way, as they did with the killing of Osama bin Laden. ¶ Human rights advocates, on the other hand, while quiet for several years (perhaps to avoid criticizing the new administration), have grown increasingly uncomfortable with drone attacks. Last year, the U.N. rapporteur for summary executions and extrajudicial killings said that drone strikes may violate international humanitarian and human rights law and could constitute war crimes. U.S. human rights groups, which stirred up international opposition to Bush administration counterterrorism policies, have been quick to condemn the Awlaki killing. ¶ Even if Obama administration officials are satisfied that drone strikes comply with domestic and international law, they would still be wise to try to build a broader international consensus. The administration should provide more information about the strict limits it applies to targeting and about who has been targeted. One of the mistakes the Bush administration made in its first term was adopting novel counterterrorism policies without attempting to explain and secure international support for them. ¶ The problem of international legitimacy is always tricky, as Bellinger knows better than anyone. I look at it this way. Tell the international community that we care about legitimacy – which is to say, that we care about their opinion in relation to our practices – and all of sudden we have handed other folks a rhetorical hold-up, to a greater or lesser degree. Unsurprisingly, the price of their good opinion and their desire to exercise control over our actions goes up. This is nothing special to this; it’s just standard bargaining theory. ¶ On the other hand, ignore them altogether, and they – particularly, note, our allies, those who say that they are acting roughly within our shared sphere of values discourse, not the Chinese or the Russians – develop a set of norms that they then apply in such a way as to mark us as the outlier and the deviant. Again, this is just drawn from any standard account of norm-negotiation; it’s not a statement of nefarious intent; it’s an acknowledgment that both we and our allies are invested in norms, and that we are not merely societies of narrow interests. At its worst, developing a quite separate norm regime and then characterizing us as genuinely deviant from it might lead to arrest warrants issued for current or former US officials, and much distrust between sides. It might also lead to places where even our allies might not want to go – putting themselves outside of the US security umbrella in particular matters that turn out to concern them a lot, such has having access to drones in Libya. ¶ If the norm envelope is pushed hard enough, however, then our allies wind up depriving themselves of access to the weapon, which clearly they don’t want to do. So they have reasons not to push too hard – both for fear of us simply ignoring them altogether (in effect withdrawing the acceptance that their opinion matters to the legitimacy of the activity) and because they want at least “parts” of it. ¶ The best place to be, then, for both sides, is roughly in the middle that Bellinger stakes out. (Note that nothing I’ve said here should be attributed to him; these are my views on the negotiation stakes.) Meaning that we have reasons to talk with our allies at length and in detail, in private and public, to try and persuade them to our views, and to persuade them that genuflecting to their advocacy and NGO groups will be worse for them than accepting our space to act, insofar as we can give a plausible interpretation of law. Plausibility is the central touchstone for international law in relations among states, finally; we and they don’t have to agree, only to agree that our several interpretations are within the ballpark of acceptability. It might involve alterations of our practice; it might not. ¶ This will never satisfy the non-governmental advocates or the academics, of course. They have no skin in the game and hence can always hold out for the most extreme position with only an indirect cost in credibility. In the case of drones, in which even some of the advocates are belatedly realizing that the weapon is indeed more precise and sparing of civilians, ignoring the NGO advocates as profoundly mistaken has spared a human tragedy in collateral damage over the long run. But the striking thing about the interstate negotiations among allies is that they don’t have to reach a conclusion – an agreement – and probably won’t. An acceptance of the plausibility of each side’s position and an agreement to continue discussion around alternatives that are considered plausible is sufficient.

#### Disclosing target criteria builds credibility, enacts domestic accountability, and doesn’t link to the terror disad.

McNeal, Associate Professor of Law, Pepperdine University, ‘13

[Gregory, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>]

Related to defending the process, and using performance data is the possibility that the U.S. government could publish the targeting criteria it follows**.** That criteria need not be comprehensive, but it could be sufficiently detailed as to give outside observers an idea about who the individuals singled out for killing areand what they are alleged to have done to merit their killing. As Bobby Chesney has noted, "Congress could specify a statutory standard which the executive branch could then bring to bear in light of the latest intelligence, with frequent reporting to Congress as to the results of its determinations."521 What might the published standards entail? First, Congress could clarify the meaning of associated forces, described in Part I and II. In the alternative, it could do away with the associated forces criteria altogether, and instead name each organization against which force is being authorized,522 such an approach would be similar to the one followed by the Office of Foreign Assets Control when it designates financial supporters of terrorism for sanctions.523¶ The challenge with such a reporting and designation strategy is that it doesn’t fit neatly into the network based targeting strategy and current practices outlined in Parts I-III. If the U.S. is seeking to disrupt networks, then how can there be reporting that explains the networked based targeting techniques without revealing all of the links and nodes that have been identified by analysts? Furthermore, for side payment targets, the diplomatic secrecy challenges identified in Part I remain --- there simply may be no way the U.S. can publicly reveal that it is targeting networks that are attacking allied governments. These problems are less apparent when identifying the broad networks the U.S. believes are directly attacking American interests, however publication of actual names of targets will be nearly impossible **(at least ex ante)** under current targeting practices**.¶ As was discussed above,** the U.S. government and outside observers may simply be using different benchmarks to measure success**.** Some observers are looking to short term gains from a killing while others look to the long term consequences **of the targeted killing policy.** Should all of these metrics and criteria be revealed? Hardly**. However,** the U.S. should articulate what strategic level goals it is hoping to achieve through **its** targeted killing **program.** Those goals certainly include disrupting specified networks**.** Articulating those goals**, and the specific networks the U.S. is targeting** mayplace the U.S. on better diplomatic footing**,** and wouldcertainly engender mechanisms of domestic political accountability.

#### Strongly err neg---their authors don’t understand how thorough and effective inter-executive mechanisms are---adding transparency’s clearly sufficient

McNeal, Associate Professor of Law, Pepperdine University, ‘13

[Gregory, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>]

To date scholars havelacked a thorough understandingof **the U.S. government’s** targeted killing practices**. As such,** their commentary is oftentimespremised on easily describable issues,andfails to grapple with the multiple levels of intergovernmental accountability presentin current practice. **When dealing with the theoretical and normative issues associated with targeted killings,** scholars have failed to specify what they mean when they aver that targeted killings are unaccountable**. Both trends have impeded legal theory, and constrained scholarly discourse on a matter of public import.**¶This article is a necessary corrective **to the public and scholarly debate.** It has presented the complex web of bureaucratic, legal, professional, and political accountability mechanisms **that exert influence over the targeted killing process. It has demonstrated that many of the** critiques of targeted killings rest upon poorly conceived understandingsof the process, unclear definitions, andunsubstantiated speculation**.** The article’s reform recommendations**, grounded in a deep understanding of the actual process,** reflect an assumption that transparency**, performance criteria, and politically grounded independent review** can enhance the already robust accountability mechanisms embedded in current practice**.**

### A2: Courts

#### The president will circumvent court restrictions.

Druck 2012 (Judah A. Druck, B.A., Brandeis University, 2010; J.D. Candidate, Cornell Law School, 2013, “DRONING ON: THE WAR POWERS RESOLUTION AND THE NUMBING EFFECT OF TECHNOLOGY-DRIVEN WARFARE,” Cornell Law Review, Vol. 98:209, http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Druck-final.pdf)

By now, the general pattern concerning presidential treatment of¶ the WPR should be clear: when faced with a situation in which the¶ WPR should, by its own terms, come into play, presidents circumvent¶ its application by proffering questionable legal analyses. Yet, as was¶ frequently the case following the aforementioned presidential actions,¶ those looking to the courts for support were disappointed to learn¶ that the judiciary would be of little help. Indeed, congressional and¶ private litigants have similarly been unsuccessful in their efforts to¶ check potentially illegal presidential action.52¶ The suits arising out of possible WPR violations are well-documented53 and therefore only require a brief review. Generally, when¶ faced with a question concerning the legality of presidential military¶ action, courts have punted the issue using a number of procedural¶ tools to avoid ruling on the merits. For example, when twenty-nine¶ representatives filed suit after President Reagan’s possible WPR violation in El Salvador, the U.S. District Court for the District of Columbia¶ dismissed the suit on political question grounds.54 Similar suits were¶ dismissed for issues involving standing,55 mootness,56 ripeness,57 or¶ nonjusticiability because Congress could better handle fact-finding.58¶ Despite the varying grounds for dismissing WPR suits, a general theme¶ has emerged: absent action taken by Congress itself, the judiciary cannot be counted on to step in to check the President.¶ To be sure, the judiciary’s unwillingness to review cases arising¶ from WPR disputes arguably carries some merit. Two examples illus- trate this point. First, although a serviceperson ordered into combat¶ might have standing to sue, congressional standing is less clear.59 Indeed, debates rage throughout war powers literature concerning¶ whether congressional suits should even be heard on their merits.60¶ And though some courts have held that a member of Congress can¶ have standing when a President acts unilaterally, holding that such¶ unauthorized actions amount to “disenfranchisement,”61 subsequent¶ decisions and commentators have thrown the entire realm of legislative standing into doubt.62 Though the merits of this debate are beyond the scope of this Note, it is sufficient to emphasize that a¶ member of Congress arguably suffers an injury when a President violates the WPR because the presidential action prevents the congressperson from being able to vote (namely, on whether to authorize¶ hostilities),63 thereby amounting to disenfranchisement by¶ “preclu[ding] . . . a specific vote . . . by a presidential violation of¶ law . . . .”64 As such, under the right circumstances, perhaps the standing doctrine should not be as problematic as history seems to indicate¶ when a congressperson attempting to have a say on military action¶ brings a WPR suit.¶ Secondly, and perhaps more importantly, it is arguably unclear¶ what, if any, remedy is available to potential litigants. Unlike a private¶ lawsuit, where a court can impose a simple fine or jail sentence, suits¶ against the executive branch carry a myriad of practical issues. For¶ example, if the remedy is an injunction, issues concerning enforcement arise: Who enforces it and how?65 Or, if a court makes a declaratory judgment stating that the President has acted illegally, it might¶ invite open defiance, thereby creating unprecedented strife among¶ branches. Yet, a number of possible remedies are indeed available.¶ For one, courts could simply start the WPR clock, requiring a Presi- dent to either seek congressional approval or cease all actions within¶ the time remaining (depending on whether the court starts the clock¶ from the beginning or applies it retroactively).66 In doing so, a court¶ would trigger the WPR in the same way that Congress would have had¶ it acted alone. On a similar note, a court could declare the relevant¶ military conflict illegal under the WPR, thereby inviting Congress to¶ begin impeachment proceedings.67 Although both cases require¶ some level of congressional involvement, a court could at least begin¶ the process of providing a suitable remedy. Thus, the more questionable issues of standing and remedies should not (under the right circumstances) prevent a WPR suit from moving forward.

### Condo Good

#### Counter interp - the negative gets

#### a. real world education – attacks will come from all sides of the aisle in the real world the aff should prepare against all attacks

#### b. neg flex – the neg is overlimited by topic literature we need as many strategic options as possible to check the 1000s of affs on the topic

#### c. topic education – this topic uniquely has literature from all three perspectives affs should have to debate all of them

#### d. checks aff side bias – the aff gets the first and last speech and infinite prep

#### e. Dispo can’t solve it destroys negative strategy by letting the aff dictate block choices, which kills aff education because they’ll only have to debate one or two things all year.

#### f. At worst reject the argument not the team – stick us with the status quo. Don’t vote on potential abuse we’re not cross-applying things from kicked flows.

## Case

### 2NC/1NR - Congress Won’t Enforce XT

#### Congress will not enforce the aff – that’s 1NC Druck – don’t give them durable fiat. Congress has been inconsistent in the past with enforcement of the WPR. It only acts when it’s politically safe to do so and when it avoids presidential backlash.

#### History – the history of restrictions is a history of abject failure – they check the President in the short-term – but future Congresses will acquiesce.

Posner and Vermeule, ‘10

[Eric (Professor of Law at the University of Chicago) and Adrian (Professor of Law at Harvard), The Executive Unbound, p. 84-88]

¶ If the constitutional framework of liberal legalism is too rickety to contain executive power, perhaps statutes can substitute new legal constraints. A principal hope of liberal legal theory is that the deficiencies of the constitutional framework can be patched up by framework statutes that will channel and constrain executive power. The executive comprises the president and (various types of) agencies, and liberal legalism tries to constrain both, through different statutes. As to the agencies, liberal legalists hope that general procedural statutes such as the Administrative Procedure Act (APA) can “translate” the principles and values underlying the separation of powers into a world in which agencies routinely hold consolidated powers of lawmaking, law-execution, and law-interpretation.1 As to the president, Congress has enacted many subject-specific framework statutes that attempt to constrain executive power, especially with regard to warmaking, foreign policy, and emergencies. And liberal legal theorists often propose new statutes of this sort—for example, a statute that would confine presidential emergency powers in the aftermath of a terrorist attack.2¶ These efforts all fall short of the aspirations of liberal legalism, in greater or lesser degree. The subject-specific framework statutes that attempt to constrain presidential power are the most conspicuous failure; most are dead letters. Seemingly more successful is the APA, which remains the central framework for the administrative state. We will suggest that this is something of an illusion; the greater specificity of the subject-specific statutes, and the greater plasticity and ambiguity of the APA, make the failure of the former group more conspicuous, while giving the latter a misleading appearance of constraining force.¶ The secret of the APA’s “success”—its ability to endure in a nominal sense—is that it contains a series of adjustable parameters that the courts use to dial up and down the intensity of their scrutiny over time. The APA’s basic flexibility allows courts to allow government to do what government needs to do when it needs to do it. The result is a series of legal “black holes” and “grey holes”—the latter being standards of reasonableness that have the appearance of legality, but not the substance, at least not when pressing interests suggest otherwise. This regime is a triumph for the nominal supremacy of the APA, but not for any genuine version of the rule of law. Liberal legalism’s basic aspiration, that statutes (if not the Constitution) will subject the administrative state to the rule of law, is far less successful than it appears.¶ SUBJECT-SPECIFIC FRAMEWORK STATUTES¶ With a few exceptions, most of the subject-specific firamework statutes that attempt to constrain executive power, particularly presidential power, are a product of the era after Watergate. As revelations of executive abuses by both federal and state governments multiplied and a backlash against executive power set in, all three branches of government acted to reduce the scope of executive discretion in matters touching on security and antiterrorism. In the middle to late 1970s, Congress imposed a range of statutory constraints on the powers and activities of the executive branch generally and the presidency in particular, especially in matters relating to foreign affairs and national security.¶ The most prominent examples are the War Powers Resolution,3 which constrained executive use of force abroad; the National Emergencies Act,4 which limited executive declarations of emergency; the International Economic Emergency Powers Act,5 which limited the executive’s power to impose various economic sanctions and controls; the Ethics in Government Act,6 which created independent counsels to investigate government wrongdoing; and the Inspector General Act of 1978, described below. Other constraints were imposed by litigation and judicial decree. Finally, some constraints were self-imposed, by executive guidelines that curtailed FBI authority to investigate groups with the potential to engage in terrorism. The restrictive Levi Guidelines of 19767 exemplified this executive self-constraint.¶ This framework for national security law has not endured. Indeed, a large part of the story of national security law in ensuing decades, and especially after 9/11, has involved efforts by various institutions and groups to loosen the constraints of the post-Watergate framework. By and large, those efforts have succeeded.8 The following are four major examples.¶ 1. The War Powers Resolution (1973). At its core, the resolution attempts to limit executive use of armed forces in conflicts abroad, without congressional approval, to a period of 60 or 90 days (omitting many complicated details). But the resolution has by many accounts become a dead letter, especially after President Clinton’s rather clear breach of its terms during the Kosovo conflict.9 Congress has proven unable to enforce the resolution by ex post punishment of executive violations or arguable violations; the courts have invoked various doctrines of justiciability to avoid claims for enforcement of the resolution by soldiers and others. As one Madisonian scholar puts it, “In the area of military policy making, the War Powers Resolution, in its current form, has simply proven inadequate to discipline executive branch unilateralism.”10¶ 2. The National Emergencies Act (1976). This statute abolished all preexisting states of emergency declared by executive order, and substituted a process for congressional review of new declarations. The process has proven largely ineffective, in large part because later Congresses have usually proven unable to use the statutory mechanism for overriding executive declarations. The Act’s default rule is set so that affirmative congressional action is necessary to block an executive proclamation of emergency, and congressional inertia has generally prevailed. In practice, “anything the President says is a national emergency is a national emergency.”11¶ 3. The International Emergency Economic Powers Act (1977). Enacted to regulate and constrain executive action during international economic crises, the statute has been construed by the courts to grant broad executive power. The Supreme Court held that it implicitly authorized the president to suspend claims pending in American courts against Iranian assets, as part of a deal to free hostages.12 And a lower court said that the president had unreviewable discretion to determine that the government of Nicaragua satisfied the statutory requirement of “an unusual and extraordinary threat,” thus triggering enhanced executive powers.13¶ 4. Inspector General Act of 1978. A final accountability mechanism is the cadre of inspectors general, who now hold offices within most federal agencies, including the Department of Justice. Inspectors general have the power to investigate legal violations, sometimes including crimes, within the executive branch. Some can be discharged by the agency head, but some can be discharged only by the president, and in either case Congress must be notified. It is clear that inspectors general have created a large apparatus of compliance monitoring and bureaucratic reporting, and have used a great deal of paper; what is harder to assess is whether they have been effective at promoting executive accountability, either to Congress or to the citizenry. The leading systematic study14 concludes that “the Inspectors General have been more or less effective at what they do, but what they do has not been effective. That is, they do a relatively good job of compliance monitoring, but compliance monitoring alone has not been that effective at increasing governmental accountability. Audits and investigations focus too much on small problems at the expense of larger systemic issues.”15¶ Why did these statutes prove less effective than their proponents hoped or, in the extreme, become dead letters? In all the cases, the basic pattern is similar. The statutes were enacted during a high-water mark of political backlash against strong executive power, which supermajorities in Congress attempted to translate into binding legal constraints. However, once the wave of backlash receded and the supermajorities evaporated, there was insufficient political backing for the laws to ensure their continued vigor over time. Later Congresses have not possessed sufficient political backing or willpower to employ the override mechanisms that the statutes create, such as the override of presidential declarations of emergency created by the National Emergencies Act.¶ Even where the statutes attempt to change the legal default rule, so that the president cannot act without legislative permission—as in the case of the War Powers Resolution, after the 60- or 90-day grace period has passed—the president may simply ignore the statutory command, and will succeed if he has correctly calculated that Congress will be unable to engage in ex post retaliation and the courts will be unwilling to engage in ex post review. President Clinton’s implicit decision to brush aside the resolution during the Kosovo conflict (albeit with the fig leaf of a compliant legal opinion issued by the Justice Department’s Office of Legal Counsel)16 shows that what matters is what Congress can do after the fact, not what it says before the fact.¶ Here a major problem for framework statutes is the “presidential power of unilateral action”17 to which we referred in the introduction. Statutory drafters may think they have cleverly closed off the executive’s avenues of escape when they set the legal status quo to require legislative permission. Because the president can act in the real world beyond the law books, however—the armed forces did not threaten to stand down from their Kosovo mission until Congress gave its clear approval, but instead simply obeyed the President’s orders—the actual status quo may change regardless of whether the legal situation does. Once armed forces are in action, the political calculus shifts and legislators will usually be unable to find enough political support to retaliate—especially not on the basis of an arcane framework statute passed years or decades before.

### 2NC/1NR – US Not Key XT

#### Their precedent evidence is a joke – that’s 1NC Anderson. There’s no causal link between the US drone doctrine and other countries’ choices. UAVs are being used because they are cheaper and more reliable than its alternatives, not because of US precedent.

**Other tech proves that US action is irrelevant to international norms on drones.**

**Etzioni 13** – professor of IR @ George Washington (Amitai, “The Great Drone Debate”, March/April, <http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview_20130430_art004.pdf>)

Other **critics contend** that **by the U**nited **S**tates ¶ **using drones, it leads other countries into making and** ¶ **using them.** For example, Medea Benjamin, the cofounder of the anti-war activist group CODEPINK ¶ and author of a book about drones argues that, “The ¶ proliferation of drones should evoke reﬂection on the ¶ precedent that the United States is setting by killing ¶ anyone it wants, anywhere it wants, on the basis of ¶ secret information. Other nations and non-state entities are watching—and are bound to start acting in ¶ a similar fashion.”60 Indeed scores of countries are ¶ now manufacturing or purchasing drones. There can ¶ be little doubt that the fact that drones have served ¶ the United States well has helped to popularize them. ¶ However, **it does not follow that U**nited **S**tates ¶ **should not have employed drones in the hope that** ¶ **such a show of restraint would deter others**. First ¶ of all, this would have meant that either the United ¶ States would have had to allow terrorists in hardto-reach places, say North Waziristan, to either ¶ roam and rest freely—or it would have had to use ¶ bombs that would have caused much greater collateral damage. ¶ Further, **the record shows** that **even when the** ¶ **U**nited **S**tates **did not develop a particular weapon,** ¶ **others did.** Thus, **China has taken the lead in** the ¶ development of **anti-ship missiles and** seemingly ¶ **cyber weapons** as well. One must keep in mind ¶ that **the international environment is** a **hostile** ¶ one. **Countries**—and especially non-state actors—¶ most of the time **do not play by** some set of **selfconstraining rules**. Rather, **they** tend **to employ** ¶ **whatever weapons they can obtain that will further** ¶ **their interests.** The United States correctly does ¶ not assume that it can rely on some non-existent ¶ implicit gentleman’s agreements that call for the ¶ avoidance of new military technology by nation X ¶ or terrorist group Y—if the United States refrains ¶ from employing that technology¶ I am not arguing that there are no natural norms ¶ that restrain behavior. There are certainly some ¶ that exist, particularly in situations where all parties beneﬁt from the norms (e.g., the granting of ¶ diplomatic immunity) or where particularly horrifying weapons are involved (e.g., weapons of ¶ mass destruction). However **drones are but one** ¶ **step**—following bombers and missiles—**in the** ¶ **development of distant battleﬁeld tech**nologies. ¶ (Robotic soldiers—or future ﬁghting machines—¶ are next in line). **In such circumstances, the role** ¶ **of norms is much more limited**.

#### Zero chance that U.S. self-restraint causes any other country to give up their plans for drones.

Boot, the Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, ‘11

[Max, 10/9/11, “We Cannot Afford to Stop Drone Strikes,” Commentary Magazine, <http://www.commentarymagazine.com/2011/10/09/drone-arms-race/>]

The New York Times engages in some scare-mongering today about a drone ams race. Scott Shane notes correctly other nations such as China are building their own drones and in the future U.S. forces could be attacked by them–our forces will not have a monopoly on their use forever. Fair enough, but he goes further, suggesting our current use of drones to target terrorists will backfire: ¶ If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them. ¶ “The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the University of Pittsburgh and author of Missile Contagion, who has called for tougher export controls on American drone technology. “The copycatting is what I worry about most.” ¶ This is a familiar trope of liberal critics who are always claiming we should forego “X” weapons system or capability, otherwise our enemies will adopt it too. We have heard this with regard to ballistic missile defense, ballistic missiles, nuclear weapons, chemical and biological weapons, land mines, exploding bullets, and other fearsome weapons. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran. ¶ The argument falls apart rather quickly because it is founded on a false premise: that other nations will follow our example. In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; China is hell-bent on getting drones; and so forth. Whether and under what circumstances they will use those weapons remains an open question–but there is little reason to think self-restraint on our part will be matched by equal self-restraint on theirs. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests. ¶ Imagine if we did refrain from drone strikes against al-Qaeda–what would be the consequence? If we were to stop the strikes, would China really decide to take a softer line on Uighurs or Russia on Chechen separatists? That seems unlikely given the viciousness those states already employ in their battles against ethnic separatists–which at least in Russia’s case already includes the suspected assassination of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone? ¶ While a decision on our part to stop drone strikes would be unlikely to alter Russian or Chinese thinking, it would have one immediate consequence: al-Qaeda would be strengthened and could regenerate the ability to attack our homeland. Drone strikes are the only effective weapon we have to combat terrorist groups in places like Pakistan or Yemen where we don’t have a lot of boots on the ground or a lot of cooperation from local authorities. We cannot afford to give them up in the vain hope it will encourage disarmament on the part of dictatorial states.

### 2NC/1NR – Alt to Drones Worse XT

#### The alternative to drones is Pakistan is worse – that’s 1NC Llenza. Predator strikes discriminate against targets better than military assault. Absent drones, we would have to invade Pakistan with ground forces or artillery barrages which trigger terrible backlash.

# 1NR

## DA

### Overview

#### Disad outweighs the AFF – nuclear terrorist attack spurs mistake retaliation against China and Russia that quickly escalates to extinction.

#### Nuclear terrorist attack turns every impact – destroys the nuclear taboo which makes war inevitable.

Bin, director of Arms Control Program at the Institute of International Studies, Tsinghua University, ‘9

[5-22-09 About the Authors Prof. Li Bin is a leading Chinese expert on arms control and is currently the director of Arms Control Program at the Institute of International Studies, Tsinghua University. He received his Bachelor and Master Degrees in Physics from Peking University before joining China Academy of Engineering Physics (CAEP) to pursue a doctorate in the technical aspects of arms control. He served as a part-time assistant on arms control for the Committee of Science, Technology and Industry for National Defense (COSTIND).Upon graduation Dr. Li entered the Institute of Applied Physics and Computational Mathematics (IAPCM) as a research fellow and joined the COSTIND technical group supporting Chinese negotiation team on Comprehensive Test Ban Treaty (CTBT). He attended the final round of CTBT negotiations as a technical advisor to the Chinese negotiating team. Nie Hongyi is an officer in the People’s Liberation Army with an MA from China’s National Defense University and a Ph.D. in International Studies from Tsinghua University, which he completed in 2009 under Prof. Li Bin]

The nuclear taboo is a kind of international norm and this type of norm is supported by the promotion of the norm through international social exchange. But at present the increased threat of nuclear terrorism has lowered people’s confidence that nuclear weapons will not be used. China and the United States have a broad common interest in combating nuclear terrorism. Using technical and institutional measures to break the foundation of nuclear terrorism and lessen the possibility of a nuclear terrorist attack can not only weaken the danger of nuclear terrorism itself but also strengthen people’s confidence in the nuclear taboo, and in this way preserve an international environment beneficial to both China and the United States. In this way even if there is crisis in China-U.S. relations caused by conflict, the nuclear taboo can also help both countries reduce suspicions about the nuclear weapons problem, avoid miscalculation and thereby reduce the danger of a nuclear war.

#### The disad turns the entire case---legally codifying geographic limits causes the U.S. to circumvent the ban by relying on even worse legal justifications---that’s clearly net worse for both norms and allied perception

Geoffrey Corn 13, Professor of Law and Presidential Research Professor, South Texas College of Law, 2013, “Geography of Armed Conflict: Why it is a Mistake to Fish for the Red Herring,” International Legal Studies, 89 INT’L L. STUD. 77 (2013)

**\*\*NOTE**: “Sub rosa” denotes secrecy or confidentiality – Wikipedia ¶ The law of conflict regulation is arguably at a critical crossroads. If threat drives strategy, and strategy drives the existence of armed conflict, the concept of TAC seems an unavoidable reality in the modern strategic environment. Opponents of TAC will continue to argue for limiting armed conflict to the well–accepted inter–State or intra–State hostilities frame-works, but this would only drive States to adopt sub rosa uses of the same type of power under the guise of legal fictions. Concepts such as self–defense targeting, or internationalized law enforcement, might avoid the armed conflict characterization, but they would do little to resolve the underlying uncertainties associated with TAC. Even worse, they would inject regulatory uncertainty into the planning and execution of military counter-terror operations, and expose those called upon to put themselves in harm’s way to protect the State to legal liabilities based on inapposite legal norms.

#### Risk of bioterror is high – results in extinction.

Matheny, research associate at Oxford University’s Future of Humanity Institute, ‘7

[Jason, previously worked at the Center for Biosecurity and holds an MBA from Duke University, “Reducing the Risk of Human Extinction,” Risk Analysis Vol. 27, No. 5, <http://users.physics.harvard.edu/~wilson/pmpmta/Mahoney_extinction.pdf>]

Of current extinction risks, the most severe may be bioterrorism.The knowledge needed to engineer a virus is modest compared to that needed to build a nuclear weapon; the necessary equipment and materials are increasingly accessible and because biological agents are self-replicating, a weapon can have an exponential effect on a population (Warrick, 2006; Williams, 2006). 5 Current U.S. biodefense efforts are funded at $5 billion per year to develop and stockpile new drugs and vaccines, monitor biological agents and emerging diseases, and strengthen the capacities of local health systems to respond to pandemics (Lam, Franco, & Shuler, 2006).

### Syria

#### Syria gave him more authority – you’re wrong.

Posner, Kirkland & Ellis Professor, University of Chicago Law School, 9-3

[Eric, 9/3/13, Obama Is Only Making His War Powers Mightier, [www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/09/obama\_going\_to\_congress\_on\_syria\_he\_s\_actually\_strengthening\_the\_war\_powers.html](http://www.slate.com/articles/news_and_politics/view_from_chicago/2013/09/obama_going_to_congress_on_syria_he_s_actually_strengthening_the_war_powers.html)]

¶ President Obama’s surprise announcement that he will ask Congress for approval of a military attack on Syria is being hailed as a vindication of the rule of law and a revival of the central role of Congress in war-making, even by critics. But all of this is wrong. Far from breaking new legal ground, President Obama has reaffirmed the primacy of the executive in matters of war and peace. The war powers of the presidency remain as mighty as ever.¶ It would have been different if the president had announced that only Congress can authorize the use of military force, as dictated by the Constitution, which gives Congress alone the power to declare war. That would have been worthy of notice, a reversal of the ascendance of executive power over Congress. But the president said no such thing. He said: “I believe I have the authority to carry out this military action without specific congressional authorization.” Secretary of State John Kerry confirmed that the president “has the right to do that”—launch a military strike—“no matter what Congress does.”¶ Thus, the president believes that the law gives him the option to seek a congressional yes or to act on his own. He does not believe that he is bound to do the first. He has merely stated the law as countless other presidents and their lawyers have described it before him.¶ The president’s announcement should be understood as a political move, not a legal one. His motive is both self-serving and easy to understand, and it has been all but acknowledged by the administration. If Congress now approves the war, it must share blame with the president if what happens next in Syria goes badly. If Congress rejects the war, it must share blame with the president if Bashar al-Assad gases more Syrian children. The big problem for Obama arises if Congress says no and he decides he must go ahead anyway, and then the war goes badly. He won’t have broken the law as he understands it, but he will look bad. He would be the first president ever to ask Congress for the power to make war and then to go to war after Congress said no. (In the past, presidents who expected dissent did not ask Congress for permission.)¶ People who celebrate the president for humbly begging Congress for approval also apparently don’t realize that his understanding of the law—that it gives him the option to go to Congress—maximizes executive power vis-à-vis Congress. If the president were required to act alone, without Congress, then he would have to take the blame for failing to use force when he should and using force when he shouldn’t. If he were required to obtain congressional authorization, then Congress would be able to block him. But if he can have it either way, he can force Congress to share responsibility when he wants to and avoid it when he knows that it will stand in his way.

### Link Debate

#### Restricting targeted killings outside active hostilities collapse counter terrorism – that’s 1NC Corn. It would send the signal to terrorists that there are safe havens and zones of immunity that they could escape to. The entire globe has to be a battlefield for war fighting to be effective.

#### First-resort targeting outside conflict zones is key to deny terrorist safe havens---it’s reverse-causal---codifying the restriction in the plan signals a massive victory for terrorists across the globe---and it’s unique because Obama’s able to re-expand first-resort targeted killings as long as he has the legal authority

Geoffrey Corn 13, Professor of Law and Presidential Research Professor, South Texas College of Law, 2013, “Geography of Armed Conflict: Why it is a Mistake to Fish for the Red Herring,” International Legal Studies, 89 INT’L L. STUD. 77 (2013)

TAC=Transnational Armed Conflict

Prior to September 11 and the advent of TAC, there was virtually no discourse on the permissible geographic scope of armed conflict. This is un-surprising, considering almost all armed conflicts of this period were internal, or relatively confined inter–State conflicts.34 Even when internal armed conflicts “spilled over” into neighboring territories, no State asserted the authority to conduct “global” operations against the non–State insurgent enemy. Use of the term “Global War on Terror” fundamentally altered the existing paradigm. Suddenly, a State was invoking the authority to engage what it determined were belligerent operatives wherever the opportunity to do so arose. U.S. global reach and dominant combat capability made it clear that this new enemy could not afford the risk of “basing” operations out of operational clusters confined to one geographic area. Because dispersion had to, by necessity, become the modus operandi of this new enemy,35 it inherently drove operations to extend beyond the “hot zone” of Afghan-istan.36¶ Of course, it also fueled criticism of the armed conflict characterization. Critics, relying on the “organization” and “intensity” test for assessing the existence of non–international armed conflict adopted in the Tadic appeals judgment by the International Criminal Tribunal for the former Yu-goslavia, insisted that TAC was a legal nullity.37 In contrast, the United States has adopted more of a totality–of–the–circumstances approach to assess the existence of armed conflict, relying on the intense risk presented by al Qaeda and that organization’s objective of inflicting harm on the United States and its interests wherever and whenever possible to offset the organization element of the Tadic test.38 Such an approach is justified when the effectiveness of operations against an opponent disables the abil-ity of that opponent to manifest traditional organizational characteristics. Indeed, proponents of TAC (a typology of armed conflict frequently asso-ciated with this author) implicitly understand that a strict two–prong test for assessing armed conflict produces a perverse windfall for the transna-tional terrorist enemy: as their operations become more unconventional and dispersed, the authority of the State to press the attack dissipates. Recent speeches by Obama administration officials seem to indicate that the assessed risk of future terrorist attacks is driving the decision to mount unrelenting pressure on al Qaeda.39 Depriving the State of legal freedom of maneuver to press the advantage against a degraded non–State enemy is ultimately inconsistent with its strategic and operational imperative. At a minimum, it raises the complex issue of assessing the point at which a non–international armed conflict recedes back into a category of non–conflict and nullifies LOAC applicability—an issue lacking clear and consistent standards.40¶ Where the United States presses this advantage has been and remains the other major source of consternation with the TAC concept. Critics assert an inherent invalidity to a claim of armed conflict authority that exceeds the geographic bounds of a “hot zone” of operations.41 While tactical spillover operations into contiguous States may be tolerable in limited cir-cumstances, extending combat operations to the territory of States far re-moved from a traditional battlespace is condemned as the ultimate mani-festation of an overbroad conception of armed conflict. This criticism cuts to the core of the TAC concept. Expansive geographic scope was the very genesis of TAC, an invocation of LOAC principles to address a transnational non–State belligerent threat.42 What these criticisms seem to overlook is a critical strategic foundation for TAC itself: the relationship between the scope of counterterror military operations and the evolution of the TAC concept reveals that like other evolutions of armed conflict typol-ogies, threat dynamics and strategic realities drove the law applicability assessment, and not vice versa.¶ The U.S. response to the September 11 terrorist attacks indicated the intent to leverage military power to maximum effect whenever and wher-ever the opportunity arose.43 Employing combat power in a manner indica-tive of armed conflict—by targeting terrorist operatives as a measure of first resort—would not be the exclusive modality to achieve this objective. However, unlike previous counterterror efforts it did become a significant, and in many cases primary, modality. Of course, selecting between military force and other capabilities involved a complex assessment of a variety of considerations, including the feasibility of alternate means to disable the threat—a classic illustration of national security policy making. What was clear, however, was that the nature of the threat drove a major shift in the response modality.¶ While the TAC typology seemed to defy accepted international law cat-egorizations of armed conflict, it was never really remarkable. National security strategy is always threat driven: intelligence defines the risk created by various threats; and strategy is developed to prioritize national effort to protect the nation from these threats, including defining the tools of na-tionalpower that will be leveraged to achieve this objective. When national security policy makers determine that military power must be used as one of these tools, this is translated into a military mission. That mission is then refined in the form of military strategy, which seeks to identify threat vul-nerabilities and match combat capabilities to address them.44 Once again, the nature of the threat becomes the dominant driving force in this strate-gic analysis. Thus, when the threat capability and/or vulnerability is identified outside a “hot zone,” it in no way nullifies the imperative of addressing the threat. In short, as others have noted, once the armed conflict door is open, threat–based strategy—focusing military action in response to threat dynamics in order to destroy or disable threat capabilities—is essentially opportunity driven: the conflict follows the belligerent target.45

#### Our link destroys all their spin about the plan merely codifying current policy---the current approach makes limits on first-resort killings part of the rules of engagement, not a legal restriction on authority---legally codifying them would destroy flexibility

Geoffrey Corn 13, Professor of Law and Presidential Research Professor, South Texas College of Law, 2013, “Geography of Armed Conflict: Why it is a Mistake to Fish for the Red Herring,” International Legal Studies, 89 INT’L L. STUD. 77 (2013)

Ironically, when Professor Gabrielle Blum proposed such a limitation in her article The Dispensable Lives of Soldiers,76 I was quite skeptical. However, my skepticism focused primarily on two considerations. First, her proposal extended to “hot zones”. I remain opposed to such an extension, as I believe it would inject a dangerous dilution of tactical initiative into the ex-ecution of combat operations.77 Second, it was unclear whether Professor Blum was proposing a legal norm, or a policy constraint on permissible legal authority. Once it was clear that we shared opposition to modifying the existing legal authority to attack even an inoffensive enemy belligerent operative (such as an enemy soldier sleeping in a barracks or assembly area or attempting to retreat from an ongoing attack), and that she was in fact proposing consideration of policy limits on that authority, we were much more closely aligned in our views.78¶ This latter aspect of the “capture or kill” debate is critical, and in my opinion, if such a limitation on targeting authority is justified, it must be framed as a policy limit on otherwise lawful authority: a rule of engagement.79 This is because there may be situations, even where these conditions are satisfied, when an attack is justified because of the influence it will produce on enemy leadership and other belligerent operatives. It is this corporate, as opposed to individualized, approach to attack justification that distinguishes targeting belligerent operatives from targeting civilians taking a direct part in hostilities. It therefore requires strictly limiting any “capture or kill” obligation to a policy applique restricting underlying legal authority. In short, even when capture is a completely feasible option to incapacitate an enemy belligerent operative, there still are times when attack is preferred because of the shock effect it will produce on the corporate enemy capability.80

#### Aff makes makes us incapable of offering surrender--results in banning drones everywhere outside Afghanistan

Michael W. Lewis 12, Associate Professor of Law at Ohio Northern University Pettit College of Law, Spring 2012, “ARTICLE: SYMPOSIUM: THE 2009 AIR AND MISSILE WARFARE MANUAL: A CRITICAL ANALYSIS: Drones and the Boundaries of the Battlefield,” Texas International Law Journal, p. lexis

¶ The legal determination of what constitutes "the battlefield" has particular significance for the use of drones, particularly armed drones. This is because "the battlefield" is used to effectively define the scope of IHL's application. n31 In situations outside the scope of IHL, international human rights law (IHRL) n32 applies. ¶ For the [\*300] purposes of this Article, the salient difference between these two bodies of law lies in their disparate provisions regarding the use of lethal force. IHL allows for lethal force to be employed based upon the status of the target. n33 A member of the enemy's forces may be targeted with lethal force based purely on his status as a member of those forces. n34 That individual does not have to pose a current threat to friendly forces or civilians at the time of targeting. n35 In contrast, IHRL permits lethal force only after a showing of dangerousness. n36 Under IHRL (the law enforcement model), lethal force may only be employed if the individual poses an imminent threat to law enforcement officers attempting arrest or to other individuals. n37 Further, IHRL requires that an opportunity to surrender be offered before lethal force is employed. n38¶ Because drones are incapable of offering surrender before utilizing lethal force, armed drones may not be legally employed in situations governed by IHRL. n39 This absolute prohibition does not apply to other forces commonly used in counterinsurgency or counterterrorism operations, such as special forces units, because it is possible for them to operate within the parameters of IHRL. Although the use of special forces in law enforcement operations has the potential to be legally problematic, n40 appropriately clear and restrictive rules of engagement that include the requirement of a surrender offer can allow special forces to operate under an IHRL regime. n41 Similarly, almost any other part of the armed forces, from regular army units to military police to Coast Guard and naval forces, can adapt their operating procedures to comply with IHRL's requirements. Armed drones cannot.¶ [\*301] As a result, the debate about what constitutes the legal boundaries of the battlefield has a particularly significant impact on the use and development of drones. Because their operational limitations prevent drones from being employed outside of the permissive environments found in counterterrorism or counterinsurgency operations, their usefulness as a weapons system is strongly tied to the scope of IHL's application. If the strict geographic approach to defining IHL's scope (described in more detail below) is accepted, then drone use would be considered illegal everywhere outside Afghanistan.

#### Outside of “hot” battlefields it’s drones or nothing---other first resort options aren’t politically viable

Rosa Brooks 13, Professor of Law, Georgetown University Law Center and Bernard L. Schwartz Senior Fellow, New America Foundation, 4/23/13, “The Constitutional and Counterterrorism Implications of Targeted Killing,” <http://www.judiciary.senate.gov/pdf/04-23-13BrooksTestimony.pdf>

This increasing use of drone strikes to go after individuals with more and more tenuous links to Al Qaeda and the 9/11 attacks pushes the furthest boundaries of Congress’ 2011 Authorization for use of Military Force. The AUMF authorized the President to “[U]se all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations, or persons.” ¶ The AUMF’s language appears to restrict the use of force both with regard to who can be targeted (those with some culpability for the 9/11 attacks) and with regard to the purpose for which force is used (to prevent future attacks against the U.S.). As drone strikes expand beyond Al Qaeda targets (to go after, for instance, suspected members of Somalia’s al Shabaab), it grows increasingly difficult to justify such strikes under the AUMF. Do we believe al Shabaab was in any way culpable for the 9/11 attacks? Do we believe al Shabaab, an organization with primarily local and regional ambitions, has the desire or capability to engage in acts of international terrorism against the United States?¶ 3. The true costs of current US drone policy ¶ When we come to rely excessively on drone strikes as a counterterrorism tool, this has potential costs of its own. Drones strikes enable a "short-term fix" approach to counterterrorism, one that relies excessively on eliminating specific individuals deemed to be a threat, without much discussion of whether this strategy is likely to produce long-term security gains. ¶ Most counter-terrorism experts agree that in the long-term, terrorist organizations are rarely defeated militarily. Instead, terrorist groups fade away when they lose the support of the populations within which they work. They die out when their ideological underpinnings come undone – when new recruits stop appearing—when the communities in which they work stop providing active or passive forms of assistance—when local leaders speak out against them and residents report their activities and identities to the authorities. ¶ A comprehensive counterterrorist strategy recognizes this, and therefore relies heavily on activities intended to undermine terrorist credibility within populations, as well as on activities designed to disrupt terrorist communications and financing. Much of the time, these are the traditional tools of intelligence and law enforcement. Kinetic force undeniably has a role to play in counterterrorism in certain circumstances, but it is rarely a magic bullet.¶ In addition, overreliance on kinetic tools at the expense of other approaches can be dangerous. Drone strikes -- lawful or not, justifiable or not – can have the unintended consequence of increasing both regional instability and anti-American sentiment. Drone strikes sow fear among the "guilty" and the innocent alike,24 and the use of drones in Pakistan and Yemen has increasingly been met with both popular and diplomatic protests. Indeed, drone strikes are increasingly causing dismay and concern within the US population.¶ As the Obama administration increases its reliance on drone strikes as the counterterrorism tool of choice, it is hard not to wonder whether we have begun to trade tactical gains for strategic losses. What impact will US drone strikes ultimately have on the stability of Pakistan, Yemen, or Somalia? 25 To what degree -- especially as we reach further and further down the terrorist food chain, killing small fish who may be motivated less by ideology than economic desperation -- are we actually creating new grievances within the local population – or even within diaspora populations here in the United States? 26 As Defense Secretary Donald Rumsfeld asked during the Iraq war, are we creating terrorists faster than we kill them?27¶ At the moment, there is little evidence that US drone policy – or individual drone strikes—result from a comprehensive assessment of strategic costs and benefits, as opposed to a shortsighted determination to strike targets of opportunity, regardless of long-term impact. As a military acquaintance of mine memorably put it, drone strikes remain “a tactic in search of a strategy.”¶ 4. Drones and the rule of law¶ Mr. Chairman, I would like to turn now to the legal framework applicable to US drone strikes. Both the United States and the international community have long had rules governing armed conflicts and the use of force in national self-defense. These rules apply whether the lethal force at issue involves knives, handguns, grenades or weaponized drones. When drone technologies are used in traditional armed conflicts—on “hot battlefields” such as those in Afghanistan, Iraq or Libya, for instance – they pose no new legal issues. As Administration officials have stated, their use is subject to the same requirements as the use of other lawful means and methods of warfare.28¶ But if drones used in traditional armed conflicts or traditional self-defense situations present no “new” legal issues, some of the activities and policies enabled and facilitated by drone technologies pose significant challenges to existing legal frameworks. ¶ As I have discussed above, the availability of perceived low cost of drone technologies makes it far easier for the US to “expand the battlefield,” striking targets in places where it would be too dangerous or too politically controversial to send troops. Specifically, drone technologies enable the United States to strike targets deep inside foreign states, and do so quickly, efficiently and deniably. As a result, drones have become the tool of choice for so-called “targeted killing” – the deliberate targeting of an individual or group of individuals, whether known by name or targeted based on patterns of activity, inside the borders of a foreign country. It is when drones are used in targeted killings outside of traditional or “hot” battlefields that their use challenges existing legal frameworks.

### Link Turn Answers

#### We control UQ. Drones now solve terrorism.

Byman 2013 (Daniel L., Research Director of Saban Center for Middle East Policy, “Why Drones Work: The Case for Washington's Weapon of Choice”, Foreign Affairs, July/August 2013, <http://www.brookings.edu/research/articles/2013/06/17-drones-obama-weapon-choice-us-counterterrorism-byman>)

The Obama administration relies on drones for one simple reason: they work. According to data compiled by the New America Foundation, since Obama has been in the White House, U.S. drones have killed an estimated 3,300 al Qaeda, Taliban, and other jihadist operatives in Pakistan and Yemen. That number includes over 50 senior leaders of al Qaeda and the Taliban—top figures who are not easily replaced. In 2010, Osama bin Laden warned his chief aide, Atiyah Abd al-Rahman, who was later killed by a drone strike in the Waziristan region of Pakistan in 2011, that when experienced leaders are eliminated, the result is “the rise of lower leaders who are not as experienced as the former leaders” and who are prone to errors and miscalculations. And drones also hurt terrorist organizations when they eliminate operatives who are lower down on the food chain but who boast special skills: passport forgers, bomb makers, recruiters, and fundraisers.¶ Drones have also undercut terrorists’ ability to communicate and to train new recruits. In order to avoid attracting drones, al Qaeda and Taliban operatives try to avoid using electronic devices or gathering in large numbers. A tip sheet found among jihadists in Mali advised militants to “maintain complete silence of all wireless contacts” and “avoid gathering in open areas.” Leaders, however, cannot give orders when they are incommunicado, and training on a large scale is nearly impossible when a drone strike could wipe out an entire group of new recruits. Drones have turned al Qaeda’s command and training structures into a liability, forcing the group to choose between having no leaders and risking dead leaders.

#### Congressional control of targeted killing is terrible.

Issacharoff and Pildes, ‘13

[Samuel (Reiss Professor of Constitutional Law, New York University School of Law) and Richard (Family Professor of Constitutional Law, New York University School of Law; CoDirector, NYU Program on Law and Security), “Drones and the Dilemma of Modern Warfare,” PUBLIC LAW & LEGAL THEORY RESEARCH PAPER SERIES WORKING PAPER NO. 13-34 Star Chamber=politicized secret court from 15th century England, symbol of abuse]

Procedural Safeguards

As with all use of lethal force, there must be procedures in place to maximize the likelihood of correct identification and minimize risk to innocents. **In the absence of formal legal processes, sophisticated institutional entities engaged in repeated, sensitive actions** – including the military – will **gravitate toward their own internal analogues** to legal process, even **without** the **compulsion or shadow of** formal **judicial review.** This is the role of bureaucratic legalism63 in developing sustained institutional practices, even with the dim shadow of unclear legal commands. **These forms of self-regulation are generated by programmatic needs to enable the entity’s own aims to be accomplished effectively;** at times, that necessity will share an overlapping converge with humanitarian concerns to generate internal protocols or process-like protections that minimize the use of force and its collateral consequences, in contexts in which the use of force itself is otherwise justified. **But because these process-oriented protections are not codified** in statute or reflected in judicial decisions, **they typically are too invisible to draw the eye of constitutional law scholars** who survey these issues from much higher levels of generality. In theory, **such review procedures could be fashioned alternatively as a matter of judicial review** (perhaps following warrant requirements or the security sensitivities of the FISA court), **or accountability to legislative oversight** (using the processes of select committee reporting), or the institutionalization of friction points within the executive branch (as with review by multiple agencies). **Each could serve as a check on the development of unilateral excesses by the executive**. And, presumably, **each could guarantee that internal processes were adhered to and that there be accountability for wanton error.** **The centrality of dynamic targeting** in the active theaters such as the border areas between Afghanistan and Pakistan **make it difficult to integrate legislative or judicial review mechanisms**. Conceivably, **the decision to place an individual on a list for targeting could be a moment for review outside the boundaries of the executive branch**, but even this has its drawback. **Any court engaged in the ex parte review of the decision to execute someone outside the formal mechanisms of crime and punishment risks appearing as** a modern variant of the Star Chamber.64 Similarly, **there are difficulties in forcing a polarized Congress as a whole to assume collective responsibility for decisions of life and death and the incentives have turned out to not to be well aligned to get a subset of Congress**, **such as the intelligence committees, to play this role effectively**.65